

## FARMING AND PROPERTY BULLETIN – FEBRUARY 2021

### **Countryside Productivity Small Grant Scheme**

Defra has announced the Third-Round claim deadline has been extended by two months. Applicants now have until midnight on the 31<sup>st</sup> May 2021 to buy and install all their items, and submit their claim for payment.



### **COURT OF APPEAL DECISION: CTIL v Ashloch and AP Wireless**

The Court of Appeal has handed down judgment in the telecoms case of Cornerstone Telecommunications Infrastructure (CTIL) v Ashloch Limited (1) & AP Wireless II (UK) Limited [2021]. In which the case was dismissed by the Court of Appeal, confirming that the Upper Tribunal was correct in finding that an operator whose occupation was protected by the Landlord and Tenant Act 1954 could not secure a new agreement by using paragraph 20 of the Code. This will be a blow to Operators but is good news for landowners and shows the importance of familiarising yourself with the type of agreement you have in place.

### **RPA online functionality**

The RPA has confirmed it is now possible to transfer Basic Payment Scheme (BPS) entitlements and land online via the Rural Payments service, in readiness for BPS 2021 applications from March.

Land can be transferred or removed online, but only if it shows as 100% owned. You are able to request that the RPA update this status by using the “Change land tenure form” available on gov.uk website. It should also be possible to “Add Land” using an email request to the RPA but you will need to include the following details:

- SBI and business name the land is to be linked to
- Land parcel reference numbers for the land to be added
- Name and contact telephone number should the RPA need to contact you



You can also transfer BPS entitlements online, which must be done by 17<sup>th</sup> May 2021 in order to make use of them for the 2021 claim year. The 2-year usage rule has also been scrapped but make sure you check entitlement lease end dates as the RPA does not always notify the parties of entitlements returning.

### **Further delays to the Environment Bill**

The Government has confirmed that the ‘flagship’ Environment Bill has been delayed again. It was due to return to Parliament last month, for the House of Commons report stage, but was removed at the last minute from the agenda. DEFRA said this was because: “The COVID-19 pandemic has resulted in exceptional pressure on the Parliamentary timetable which has reduced the amount of Parliamentary time available for the scrutiny of legislation.” The Bill will be carried over to the next parliamentary session.

### **Cross Compliance Changes in 2021**



‘The guide to cross compliance in England 2021’ was published on 18 December 2020 by the Rural Payments Agency (RPA). There are not going to be any changes to Good Agricultural and Environmental Conditions (GAECs) or Statutory Management Requirements (SMRs). However, before an inspection is carried out farmers will be advised what records the Inspector will check. This will give farmers an opportunity to prepare in advance.

The cross-compliance guidance has also been simplified with links to avoid duplication and to make the guidance “easier” to understand. A change in penalties will apply to farmers who apply for BPS in 2021 and/or whose Countryside Stewardship agreements start on or after 1 January 2021. For these farmers, penalties for non-compliances should be more proportionate. The penalty matrix will be updated to expand the range of penalties available to include 2% and 4% reductions. This will remove the assumption that most negligent breaches start at 3% and enable the RPA delivery team to determine what penalty to apply.

### Basic Payment Scheme Changes in 2021

The guidance for 2021 will be updated shortly but the main changes include:

- **Removing greening requirements** - Crop diversification, Ecological Focus Areas (EFAs) and permanent grassland rules will be removed.
- **Removing entitlement usage rules** – the 2-year rule will no longer apply.
- **Extending force majeure** – Farmers will now have 8 weeks (rather than 15 days) to advise the RPA of force majeure or exceptional circumstances and supply the necessary information.
- **Extending the period for submitting supporting documents and amending applications** – The RPA will accept changes to the application and supporting documents until 11<sup>th</sup> June 2021 without penalty.
- **Introducing a reduction in payments for all claims** – Over the next 7 years, the RPA will gradually reduce payments. The following percentage reductions will apply to 2021 claim:

Payment Band	Reduction
Up to £30,000	5%
£30,000 - £50,000	10%
£50,000 - £150,000	20%
More than £150,000	25%

And from 2022-2024 the RPA will reduce payments by:

Payment Band	2022	2020	2024
Up to £30,000	20%	35%	50%
£30,000 - £50,000	25%	40%	55%
£50,000 - £150,000	35%	50%	65%
More than £150,000	40%	55%	70%

### Nitrate Vulnerable Zones

The Environment Agency recently concluded its 4-yearly review of Nitrate Vulnerable Zones (NVZs) for the period 2021 to 2024 in England and has recommended the zones should remain the same. Defra will contact farmers in writing to confirm this in due course.



Adkin and Roadnight Taylor are pleased to invite you to their joint webinar.

Hosted by Simon Alden, joined by Hugh Taylor of Roadnight Taylor, the webinar will help landowners find out about:

- the opportunities and potential ground rents for large-scale solar, battery and other energy schemes;
- what makes a good site for a large-scale energy scheme;
- how to get ahead of your neighbours and maximise your chances of achieving an energy scheme lease;
- how to remain in control, and optimise your rent and terms;
- the pitfalls to avoid (that thousands haven't); and
- what to expect in an energy scheme heads of terms agreement.

To register for this event please visit: [https://zoom.us/webinar/register/WN\\_80C\\_CcU-QvyfvA\\_j\\_k1tlw](https://zoom.us/webinar/register/WN_80C_CcU-QvyfvA_j_k1tlw)