



AGRICULTURAL LAW ASSOCIATION

Members E-Newsletter #3 29 April 2020

1. CORONAVIRUS – GENERAL RURAL PAYMENT & RELATED UPDATES

Rural Payments Agency updated guidance (last updated 27 April) -
<https://www.gov.uk/guidance/coronavirus-covid-19-information-for-farmers-landowners-and-rural-businesses>

Rural Payments Wales guidance (last updated 27 March)-
<https://gov.wales/rural-payments-wales-rpw-coronavirus-covid-19>

Natural England Operational Update – Covid-19 (last updated 23 April) -
<https://www.gov.uk/government/news/operational-update-covid-19>

Environment Agency Operational Update – Covid-19 (last updated 24 April) -
<https://www.gov.uk/government/news/environment-agency-operational-update>

Natural Resources Wales – Our approach to the coronavirus pandemic (last updated 28 April) - <https://naturalresources.wales/about-us/news-and-events/statements/our-response-to-the-coronavirus-pandemic/?lang=en>

The Welsh Government hosts a useful page on their website summarising the legislation that has been passed in response to the Covid-19 pandemic which can be viewed at <https://gov.wales/coronavirus-legislation>

2. WELSH GOVERNMENT – DRAFT WATER RESOURCES REGULATIONS

On 9 April, the Welsh Government published their draft of The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2020 and explanatory note – see <https://gov.wales/draft-water-resources-control-agricultural-pollution-wales-regulations-2020>

Whereas the requirements under the Nitrate Pollution Prevention (Wales) Regulations 2013 applied only to holdings situated in designated Nitrate Vulnerable Zones, the new Regulations would apply to all holdings in Wales.



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The Welsh Government points out that these have been made available so that stakeholders can see their proposed approach but state that a final decision on whether they will be introduced has not been made.

We will include a more detailed article on the draft Regulations in the Spring Bulletin.

3. SCOTLAND – REVIEW OF THE TENANT FARMING COMMISSIONER

The Scottish Government published its Review of the functions of the Tenant Farming Commissioner on 1 April.

The key recommendations are:

1. To foster compliance with the codes of practice, the Tenant Farming Commissioner should be granted the authority to sanction and impose financial penalties on anyone found to have been in breach of the codes of practice.
2. To continue the delivery of additional guides and information for landlords, tenants and agents, the provision and promotion of guidance, information and advisory documents should be added as a function of the Tenant Farming Commissioner.
3. To keep pace with the changing nature of the business arrangements of agricultural holdings, ministers should consider extending the remit of the Tenant Farming Commissioner to include alternative business arrangements, such as joint ventures and business partnerships.
4. To further encourage good relations among landlords and tenants of agricultural holdings and their agents, the Tenant Farming Commissioner may adopt the additional function of providing mediation services where the relationship between tenants, landlords and agents has deteriorated but codes of practice have not necessarily been breached.
5. Where not already happening, the Tenant Farming Commissioner should be consulted on matters of land reform and agricultural tenancy.

The full Report can be viewed at <https://www.gov.scot/publications/review-functions-tenant-farming-commissioner/>



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4. PUBLIC RIGHTS OF WAY – COVID 19

There has been a significant level of discussion on social media and other media outlets on the use of public rights of way during the current Covid-19 restrictions.

Governments and their agencies have updated their guidance and in the specific case of Wales, new laws published on 24 April, as follows:

Natural England Operational Update – Covid-19 (last updated 23 April) - <https://www.gov.uk/government/news/operational-update-covid-19>

Welsh Government - <https://gov.wales/public-rights-way-and-access-land-closures> & <https://gov.wales/public-rights-way-and-access-land-coronavirus-guidance-landowners> - see also [The Health Protection \(Coronavirus Restrictions\) \(Wales\) \(Amendment\) \(No.2\) Regulations 2020](#)

Scottish Government – Ministerial Statement on access rights - <https://www.gov.scot/publications/ministerial-statement-on-access-rights-during-covid-19/>

In respect of Northern Ireland, there has been no specific guidance issued by the Northern Ireland Executive, although some commentary on access to the countryside is contained in the latest Ulster Farmers Union Covid-19 'Frequently Asked Questions for Farmers' publication which can be viewed at <http://content17.com/media/99/images/full/23-04-20---COVID-19-FAQs.pdf>

5. CASE LAW UPDATES

We draw Members attention a couple of new case judgements that have been added to the website - <https://ala.org.uk/case-law/>

Inheritance Tax

William Charnley & Malcolm Hodgkinson (Exors of the late Thomas Gill v HMRC
[2019] UKFTT 650 (TC)

Agricultural property relief – Business property relief – whether dwelling was a farmhouse – nexus between farmhouse and land – agricultural purposes - whether business wholly or mainly consisted of holding investments – appeal allowed



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Access to land under a Development Consent Order

John Sawkill v Highways England Company Limited

[2020] EWHC 801 (Admin)

Section 53 Planning Act 2008 - Section 172 Housing and Planning Act 2016 - - power to enter onto land to undertake tests - discharge of pumped groundwater onto land - whether or not it is a permissible activity covered by the power to undertake surveys in any event

6. 2020 BPS CLAIMS

England:

The Rural Payments Agency has extended the deadline for submitting BPS claims to 15 June (<https://www.gov.uk/government/news/two-month-window-to-claim-for-farm-payments-for-2020-opens>)

Wales:

This follows the Welsh Government announcement on 1 April to extend the deadline to 15 June for submitting Single Application Forms (<https://gov.wales/emergency-measures-support-farmers-during-covid-19-unveiled>)

Scotland:

At the time of writing, the Scottish Government has not yet followed with extending the deadline in Scotland for submitting Single Application Forms. It remains 15 May at present. The latest update published on 1 April can be accessed at <https://www.ruralpayments.org/topics/customer-services/covid-19-updates/>

Northern Ireland:

Likewise, in Northern Ireland, the claim deadline for this year's Single Application remains 15 May. Latest updates can be viewed at <https://www.daera-ni.gov.uk/landing-pages/daera-and-covid-19>)



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7. CEREALS LIVE

For the first time ever, the Cereals Event is going online to support the industry amid the Covid-19 pandemic, with existing exhibitors and sponsors involved.

Cereals LIVE 2020 will be held online on 10-11 June 2020.

For more information and to register visit www.cerealsevent.co.uk.

8. ALA SPRING BULLETIN

This is advance notice that the Spring Bulletin will be circulated to Members towards the end of May as we develop a new online version using new publishing software.

If any Member would like to submit articles for future editions, please contact me at mike.holland@ala.org.uk

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