

THE AGRICULTURE BILL

SUBMISSION BY THE CENTRAL ASSOCIATION OF AGRICULTURAL VALUERS (CAAV) TO THE PUBLIC BILL COMMITTEE OF THE HOUSE OF COMMONS

23RD OCTOBER 2018

Introduction

1. The Central Association of Agricultural Valuers (CAAV)

1.1 The CAAV represents, briefs and qualifies some 2,900 professionals who advise and act on the very varied matters affecting rural and agricultural businesses and property throughout the United Kingdom. Instructed by a wide range of clients, including farmers, owners, lenders, public authorities, conservation bodies, utility providers, government agencies and others, this work requires an understanding of practical issues.

1.2 Agricultural policy and its operation is fundamental to the work of members and their clients, whether directly involved with the current payments or not, making this Bill and the equivalent processes in the devolved administrations of great significance to us.

1.3 The CAAV does not exist to lobby on behalf of any particular interest but rather, knowing its members will be called on to act for or advise both Government and private interests under developing policies, aims to ensure that they are designed in as practical a way as possible, taking account of circumstances and the interactions with other policies and issues, aware of likely consequences and practical effects.

2. The Agriculture Bill

2.1 We welcome the Bill for the provisions it makes for the United Kingdom and DEFRA for England to have the powers over agricultural policy currently exercised by the European institutions and so the framework it gives for the development of future policy. Within those general provisions, far more of the information as to future policies has, understandably, been set out in the announcements accompanying the Bill rather than in the Bill itself. Those policies, focused on serving markets for food and public goods, are thought likely to drive processes of change for farming similar to those seen for other sectors that have had to adapt to more open markets. After commenting on that, we review some specific aspects of the Bill.

2.2 In combination, and alongside other Brexit legislation (including that on environmental matters), the Bill and the announcements by DEFRA set a clear direction for policy in England with:

- the phasing out of the Basic Payment, announced in later 2018 to start in 2021 and run to 2027
- decisions about food production being the farmers' choices in the market place
- the transfer of much of the funds made available by that the purchase of "public goods", due after trials and pilots to become nationally available from 2025

- funds and policies also supporting productivity, resilience and other goals.

Those policies will be developed alongside whatever prove to be the United Kingdom's future trading arrangements with the EU and with other countries (including any reduction in the current tariff wall, especially for livestock) as well as the opportunities of the new technologies for farming.

2.3 Fundamentally, agricultural policies are about a great deal more than payments to farmers but provide the framework for farming and land management. Brexit offers the historic moment and opportunity for the United Kingdom to tackle them well. That requires a broad spread of policies, a full toolkit, from tenancies and taxation to data and knowledge exchange not only to manage successfully the coming transition for farming and land management in conjunction with the environmental and "public goods" aims of the policies.

Overview: Change, Productivity and Public Goods

3. The Resulting Changes for Farming

3.1 A key practical point is the scale of change and adjustment for farming as it moves from the arrangements inherited from the EU's Common Agricultural Policy (CAP) to those founded on markets in food production and more of a market place for farmers to sell "public goods" to the state acting as buyer on behalf of society.

3.2 Farming has been partially insulated from market pressures by the support schemes of the CAP. In particular, the area payments developed by the CAP since 1992 and then further in 2003 and 2013 have acted to reward land occupation, not business activity, and can be seen to be associated with less flexible use of land occupation markets and so with the relative weakness in the United Kingdom's agricultural productivity growth.

3.3 The progressive removal of area payments and the prospect of more open trading arrangements seem likely to drive an accelerated process of change in who is farming what land and how, both unwinding the protectionist effects of past area payments and responding to the coming changes, while working through the life cycles of those running the small family businesses that predominate in farming. Our concern is that this process of change be managed to maximise its benefits and minimise its costs, whether financial, social or environmental.

3.4 The economic forces involved in this are large. Basic Payment offers a very large margin over cost to claimants – perhaps £1.2bn in England. The replacement public goods schemes will not receive all the money taken from Basic Payment and, even with the potential for "natural capital" pricing to offer margins to help create markets, will offer much less margin to claimants. It might thus be that, by 2027, English farming will have lost perhaps £1bn from the annual margin it currently receives from the state. A significant fraction of that would be recovered by the pressure that will place on input costs and also for business restructuring and efficiency.

4. Managing that Change

4.1 The proposed agricultural transition period is essential for the management of that change, allowing businesses and economic process to adjust, creating and responding to new prices and with time for farms to implement changes in policy or structure.

4.2 While the progressive removal of Basic Payment would indeed be a powerful driver of that process, we believe that managing this properly also requires a greater and more sustained attention to be paid to stimulating improved productivity – farming’s efficient use of resources and its competitiveness, creating the profit for it to thrive and play its full environmental part.

4.3 Productivity - The necessary developments for the farming sector to adapt to the new policy and business environment will not be a simple and swift transformation but take much effort and time. The scale of the challenge and the changes associated with meeting it should not be underestimated. Success requires attention to:

- skills and training
- investment
- approaches to sustained innovation in business policy, technology and marketing, all the better if enabled by a new positive regulatory climate after Brexit
- ensuring flexible and open markets in land occupation and use

all supported by effective and practical advice and facilitation.

4.4 Flexibility in Land Occupation to Benefit the Proficient - With the work of the CAAV and its members for owners, farmers and others, that last point is critical. The task is not solely to help existing farmers better but to unlock change in farm structures enabling entry into farming, to the benefit of the proficient and so of the land, its owners and industry. This is not a concern about the ownership of land, which can be for many motives, but about its practical occupation and use, including tenants and by other arrangements. Ensuring the ability to enter farming, progress, reshape business and to withdraw in whole or part calls for basic supply-side measures for a successful sector.

4.5 Farmers are not average: the range of performance between farmers is large in every sector from large losses from farming to useful surpluses, before present subsidies and other income. The AHDB sees the top quartile as the most resilient, setting a benchmark for others while they also improve and take advantage of the new technologies. That will have to be a continuous dynamic process, not a simple step change.

4.6 Patterns of Change - Among the changes we foresee, often accelerating and developing existing trends, are:

- those who can and wish to be commodity producers focusing on retaining or seeking the land that will give them a margin, rather than simply on scale
- those seeking ways to produce products that are not commodities, whether by adding value, specialism, differentiation or other means
- those who look at their land, buildings, collateral, labour and other resources as opportunities to develop income and business.

These are not mutually exclusive options; some will pursue all three approaches on different areas. Restructuring to these ends may be much less about scale than margin. Land not wanted

by some may well be useful to others; signals from changing prices and flexible markets in occupation will assist that.

4.7 Public Goods - Provided that the “public goods” schemes are well-designed and administered, agreements offering a useful financial margin for supplying them could form part of that approach for many:

- sometimes (as with soil improvement) supporting productivity
- sometimes using less productive land as a way to seek a higher margin, complementing that from farming other land
- sometimes becoming the central focus of activity, perhaps most often for the more marginal cereals and grazing land.

4.8 The Outcome - The outcome will be a much less standardised industry than the one we have created since the War through policies before and under the CAP, largely dedicated to full time commodity production. Achieving that will be major a call on all involved, not only government and farmers.

4.9 Advisory Support - As the national specialist professional association representing, briefing and qualifying agricultural valuers who advise and act for farmers, owners and others, the CAAV is conscious of the role in this for its members as trusted advisers, helping each business through its discussions, decisions and implementation in these processes. A climate that is positively supportive of sustained, useful advice with the necessary conversations and time for reflection and delivery of everything from cost control, the adoption of new technology and generational change to repositioning the business, implementing a diversification project, accepting that land should be let out or understanding the value in public goods contracts.

5. Tenancies

5.1 The Tenancy Reform Industry Group (TRIG) made a series of recommendations to DEFRA when charged last year with considering the issues and proposing reforms to agricultural tenancy law to support productivity improvement.

5.2 With the importance of this topic for the ability of farming to adapt over the next decade, we suggest that the Bill be amended either:

- to introduce those measures (on which we can brief further), or
- in keeping with the Bill’s generalist style, to provide powers for Ministers to bring forward measures to improve the flexibility of agricultural tenancies and other arrangements for occupying and using land for agricultural purposes in order to promote productivity. Such an approach would look wider than simply tenancy law. While those powers would appear to be created by Clause 32(3) of the Bill, this would offer a clear signal that these important issues are recognised by the Bill.

In either case, the scale of the challenge for farming and its existing businesses to change requires early action in this area to give the tools to manage that change.

6. Taxation

6.1 With that topic, while recognising that taxation matters are outside the remit of the Bill, we commend to all the positive experience since 2015 in the Republic of Ireland of the

enhanced Income Tax relief (akin to the Rent-a-Room relief in the United Kingdom) on rents for farmland on arm's length lettings for five years or more. Introduced as part of policies to move land into the hands of the "trained", data from the Irish Revenue point to this having moved some 300,000 acres into a previously almost non-existent let sector in just two years.

The Bill's Specific Provisions

7. Introduction and Definitions

7.1 The general nature of the Bill's provisions, in the main taking widely defined powers, makes it relatively hard to comment on many clauses as so much will depend on how the powers created will be used.

7.2 **Public Goods – "Human Ecology"** - Clause 1(1) is taken as essentially setting out the range of "public goods" on which money may be spent under the new policies. They are generally wide ranging but while the *Health and Harmony* consultation spoke of the social resilience benefits of farming as a strength underpinning rural communities, that theme is not picked up in this list. While the question of "human ecology" (the Secretary of State's phrase) was raised there for the uplands (for which *Health and Harmony* suggested there should be a vision), there are other fragile rural areas.

7.3 **Productivity** - Clause 1(2) with powers to support productivity is also welcome. The examples of support for productivity in Clause 1(4) should also expressly include the marketing of produce as this will be an important part of the more commercial future for farming.

7.4 **The Definitions of Livestock** - Also in Clause 1(4), the definition of livestock is a new one:

"livestock" includes any creature kept for the production of food, drink, oils, fibres or leathers, or for the purpose of its use in the farming of land."

Differing from that used over the years in tenancy, planning and other legislation; for example:

"livestock" includes any creature kept for the production of food, wool, skins, or fur or for the purpose of its use in the farming of land or the carrying on in relation to land of any agricultural activity;" (Agricultural Holdings Act 1986 s.96)

With the changed reference to fibres, this adds the production of oil - is this to cover some possible uses for fish?

7.5 It is also broader than the definition of "creature" for the agri-food supply chain at Clause 13(6), based on "keeping ... for the production of food or drink" while Clause 14(4) (c) allows data collection to promote

"the health or traceability of creatures of a kind kept for the production of food, drink, fibres or leathers".

8. Clauses 5 and 8 – Transition from BPS

This is a key part of the new policy world, releasing funds for new schemes and driving business change over a period of time that can be managed not only by farming but also government as it develops new policies. For the process to be tangible it should not ordinarily run beyond 2027 and for it to be managed it should not run to earlier than 2025 – still 7 years from now. We note that the Government is indicating that the development of the Environment

Land Management (ELM) scheme will unfold relatively slowly; we hope that will ensure a competent and well administered scheme.

9. Clause 6 – Simplification

The longstanding theme is always a welcome aspiration but experience shows it is hard to deliver. Policy simplification assists good administration but competing pressures tend to result in complexity.

10. Clause 7 - “De-linking”

10.1 Ahead of an expected consultation on de-linking, little is known of how or when it might operate. We are sceptical as to whether a general de-linking will actually prove to deliver the structural goals suggested. Farmers have not generally treated the Single and Basic payments as decoupled and de-linked payments might not be seen any differently. However, if this were more clearly designed as a means for farmers (of any age) to withdraw from farming whether to retire or to pursue other work that might have more success.

10.2 Its effect as a policy will also be conditioned by the taxation treatment of payments consequences, including any capitalised payment.

10.3 We are concerned about the practical mechanics for awarding the de-linked payments, especially when farming will have embarked on a process of substantial change and this is to be a means for unlocking change:

- there are still significant inaccuracies in the RPA’s data for the Basic Payment Scheme, making it even more imperative for these to be resolved if these are to be the basis for assessing the delinked payments and any capitalisation of them.
- with the assessment of a farmer’s delinked payment using a base or reference period, all previous such projects have seen major challenges. Those will be greater where an historic date is used, as the gap between that date and the start of delinking will see issues accumulating with intervening business change and family succession requiring mechanisms to respond fairly to them. A later date will allow more choice as to who will then have the payment and not inhibit restructuring.

10.4 Further, where this does accelerate the release of land some possible users of that land will, as existing farmers hold the de-linked payment, but others, as new entrants, will not, currently raising the question of whether a means to handle this would assist change. That could be considered as a part of any policy for new entrants while transitional support for them might reduce any potential turbulence in markets around de-linking.

11. Part 3 - Clauses 12 to 16 - Data for the Agri-Food Chain

11.1 Seeing the positive motives for and possibilities for the proposals here, we do ask that their wide scope be closely scrutinised so that we can all understand how they might be used.

11.2 We hope that, if this is followed through, it will enable data from processors and purchasers about demand to be as available as the data for what farmers are supplying. Farmers often sense that their positions are more transparent than those with whom they deal. That suggests an interaction with Clause 25 over data handling in the supply chain.

11.3 While data is to be collected for supply chain activities, the purposes allowed by Clause 14 go very widely:

- sub-clauses (a), (b), (e), (f), and (g) appear to fit well with agri-food supply chain issues
- sub-clause (c) could do so if traceability is for the supply chain in which case it might also refer to plants
- it is less clear how the health side of (c) and (d) fit with this rather than disease control
- the scope of sub-clause (h) appears to be very broad with part (viii) allowing data collection for the purposes of any function of any public authority related to the “countryside”. Not only is that an undefined term but, if it is warranted, there are not similar powers for agri-food supply chain issues outside the countryside.
- we suggest that part (iv) of (h) be split to separate the topics and plants and soil for clarity but also to test what is the purpose here of mandatory powers to collect soil data – important in other respects - for the agri-food supply chain remit of Clause 12.

11.4 Further, both Clause 13(2)(c) and (3)(b) appear to cover game and foraging. Is this intended?

11.5 Clause 13(6) might be clarified to show whether or not it covers intermediate production stages such as breeding or rearing of animals or the early stages of, for example, mushroom production with the product not directly sold for food.

11.6 With a substantial number farming in both England and Wales and much food processing for Wales being done in England, the focus on the agri-food supply chain appears compromised by limiting it to activities in England? (Clause 12 (1) and (2)).

12. Consequential Changes - Clause 33

We note the very wide powers proposed here, albeit subject to the affirmative procedure and have discussed the question of necessary tenancy legislation above.

13. Penalties – Clause 29(6)

What breaches of this legislation warrant prison sentences that could not be imposed otherwise?

14. Devolution

14.1 It appears useful and efficient for the Bill to make the provisions it does for Wales and Northern Ireland. We welcome the Government’s willingness to promote amendments to the Bill for equivalent Scottish provisions, as and when they may come forward.

14.2 The Welsh Government is actively developing the policies and schemes it will adopt under these provisions and we are engaged with it.

14.3 It is critical that the necessary decision making is undertaken for future agricultural policies in Northern Ireland despite the lack of a Government and Assembly there. An initial “stakeholder engagement” has now taken place; we note the powers proposed by Clause 3 of the new Northern Ireland (Executive Formation and Executive Functions) Bill for senior officers of departments to exercise departmental functions. It is important for all involved in

Northern Irish agriculture (with additional questions of the Irish border) that policies suitable to Northern Irish circumstances are taken forward and implemented effectively to give a secure policy framework for people to take the business decisions necessary to manage change successfully.

14.4 More generally, as the return of agricultural policy is to the United Kingdom with devolution there are a number of issues (as previously seen with the Supreme Court decision on agricultural wages and Wales) where it would be useful to have clarity over the issues that are and are not devolved and those subject to joint procedures. We understand these include issues around the boundary between competition law and agricultural policy such as:

- Clauses 22 to 24 on Producer Organisations – is recognising a group of farmers as a PO a UK reserved matter or a devolved matter? The Bill treats it as a UK matter.
- Clause 25 – the regulation of fair dealings in supply chains, binding farmers and those they supply, is drafted as a reserved matter
- Clause 26 – is there to be a role for the devolved administrations in the internal UK decisions over the treatment of farm payments for WTO rules, such as how the amber box totals might be divided for operational purposes?

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23rd October 2018

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