

SINGLE FARM PAYMENT

CURRENT ISSUES FOR LANDLORDS AND TENANTS

As all applications for the new Single Farm Payment should now have been made to the Rural Payments Agency, we are all waiting anxiously to see exactly how much the payments will be and how the entitlements will work in practice. For Tenant Farmers and their Landlords there are also a number of relevant issues to consider in respect of their existing and proposed new tenancies.

Good Agricultural and Environmental Condition

The traditional concept of a farmer has changed to the extent that it is no longer necessary to actually farm the land in order to claim the subsidy. All that is required of the farmer now is that the land be kept in good agricultural and environmental condition. Most existing tenancy agreements will impose an obligation on the tenant to comply with the rules of good husbandry and possibly to use the land for the purposes of agriculture only. Tenant Farmers must now consider what their obligations are in respect of the land they rent and how these standards will co-exist.

Matching Land and Entitlements

Farmers need to consider very carefully whether it will be worthwhile renting any additional land. The primary issue of course will be the rent payable. This will depend greatly on whether the land comes with or without entitlements. If the land comes with entitlements then Landlords need to consider provision for the transfer of the entitlements back to them at the end of the term and obligations on the Tenant to maintain the entitlements during the term of the tenancy.

If the land comes without entitlements then the farmer will have to obtain entitlements from elsewhere, unless he has entitlements of his own without the corresponding acreage to trigger them. The full effect of the arrangements on rent levels will only become clear once the system has been up and running for a while.

Entry-Level and Higher-Level Schemes under the rural Development Programme

If a Tenant makes an application to one of these schemes then he needs to be sure that he obtains any consents required by his Landlord. The entry-level scheme is for a minimum period of five years and the higher-level for ten years. The Tenancy Agreement will need to be for an appropriate length of term. Alternatively the Tenant will need the Landlord to agree to take over the scheme; or the Tenant could end up having to repay the subsidy.

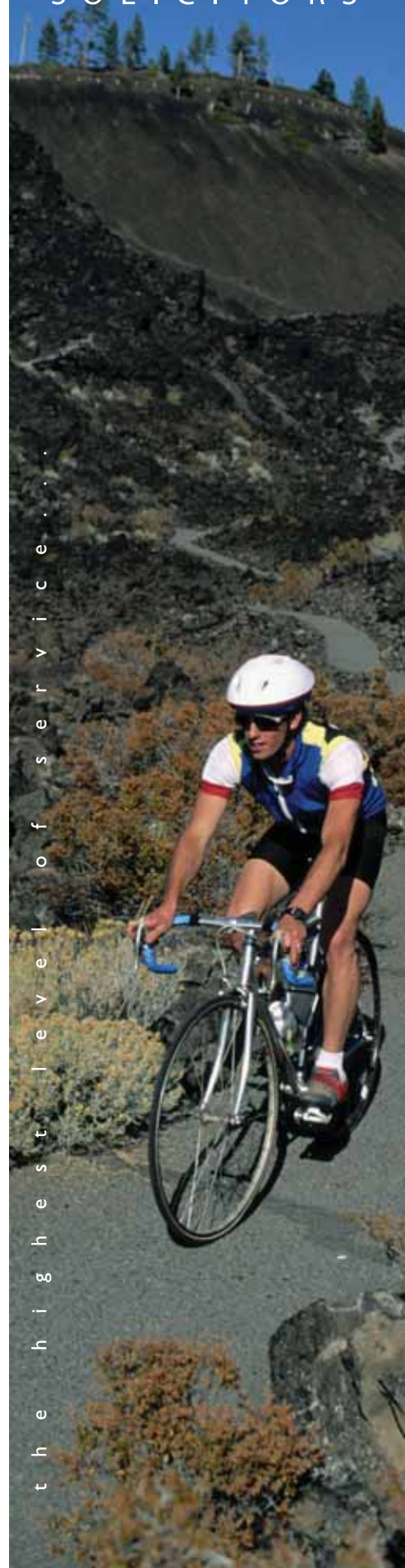
Existing agreements and new agreements will need to be considered carefully in light of these issues.



IN THIS ISSUE

- SINGLE FARM PAYMENT
- CURRENT ISSUES FOR LANDLORDS
- AND TENANTS
-
- SINGLE FARM PAYMENT
- AND PARTNERSHIPS
-
- VOLUNTARY REGISTRATION
- PROTECTION FROM SQUATTERS
-
- REGISTRATION OF OTHER
- RIGHTS OVER LAND

the highest level of service . . .



SINGLE FARM PAYMENT AND PARTNERSHIPS

A number of farmers have had to consider the effects of a sale or purchase of land or a change in their business on their claim for Single Farm Payment entitlements. However, even the many farming partnerships that may have no difficulty in claiming the entitlements should now give serious consideration to how their entitlements will be dealt with in the future.

Most partnerships will have been formed before the existence of entitlements was envisaged. This new asset is therefore not specifically dealt with in their Partnership Agreements. Farming partnerships should consider having their Partnership Agreements updated – especially where there is no written agreement. If they don't, then when a partner comes to retire or the partnership is terminated, there could be a costly dispute as to who should have the entitlements. Agreement on how the entitlements should be valued is also currently of huge significance because partners may have contributed different claims histories to the partnership.

A few farmers are now starting to address this issue, but many more are not and should urgently consider obtaining specialist advice on the subject.



REGISTRATION OF OTHER RIGHTS OVER LAND

Farmland is often affected by shooting and other sporting rights, a right to mines and minerals and other more obscure rights - which can be very valuable. The owners of these rights should ensure that they are registered at the Land Registry in full. If the rights are not registered at the Land Registry then they could soon be lost altogether.

This is a particular danger when the land is sold to a new owner or where the rights are exercised on an irregular basis. Registration of the rights is also an opportunity to piece together evidence of title to them, in case they are to be sold or given away in the future. Title to these types of rights can often be fragmentary and it is easier to establish title to them whilst the people who dealt with acquisition are still around.



VOLUNTARY REGISTRATION

PROTECTION FROM SQUATTERS

Previously it has been relatively easy for a long-term occupier of property belonging to another to acquire title to it. The 'squatter' would be registered at the Land Registry as the owner if he could prove that he or his predecessors occupied the property continuously for more than 12 years, the possession was factual and without consent and they could show an intention to possess the property. It has been surprisingly simple for a squatter to claim adverse possession without the paper owner being alerted to the danger.

The Land Registration Act 2003 introduced a significant move in favour of the landowner. Whilst the law relating to land with unregistered title remains roughly the same as it was under the previous regime, a squatter of registered land now need only be in possession for 10 years before he may apply to the Land Registry to be registered as the new owner. Under the new rules a registered owner will be notified of the application and given the right to object. If an objection is received there are only very limited circumstances in which the squatter will succeed in their application. Following a successful objection the registered owner will have 2 years in which to take action to remove the squatter from their land, to avoid a further claim being made.

Owners of unregistered title would be wise to take advantage of the tougher regime for registered land by voluntarily registering their titles. Voluntary registration also has other advantages, as dealings with registered land are generally quicker and simpler to complete. If your land is already registered, you should ensure your address details with the Land Registry are up-to-date. If not, the notice of an application for adverse possession may never reach you, enabling a squatter to acquire title to your property without you being able to object. Any notices from the Land Registry need to be dealt with promptly so as to avoid losing the right to object to any claims against your land.



INFORMATION

If you have any queries on any aspect of Agricultural Law please contact:

Neil Franklin or Angela Simpson on (01482) 323239

This bulletin is for the use of clients and will be supplied to others on request. It is for general guidance only. It provides useful information in a concise form.

Action should not be taken without obtaining specific advice.

We hope you have found this bulletin useful.

If, however, you do not wish to receive further mailings from us, please write to Mrs. Pat Coyle, Rollits, Wilberforce Court, High Street, Hull, HU1 1YJ.

The law is stated as at 1 November 2005

Wilberforce Court, High Street, Hull HU1 1YJ

Telephone: (01482) 323239

Rowntree Wharf, Navigation Road York YO1 9WE

www.rollits.com