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**COMMISSION 1 REPORT**

**UK**

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## INTRODUCTION

This is Report prepared by the UK in relation to the Commission 1. It is important at the outset of this report to make clear that the implementation of the Common Agricultural Policy in the UK occurs at regional level which each of the devolved administrations of England, Wales, Scotland and Northern Ireland each implementing the law and policy in slightly different ways across the UK. This means that preparing a paper on the UK position is increasingly difficult as it requires an analysis of four different sets of implementation mechanisms. In this paper, we have attempted to provide an in-depth analysis of the England and Wales position with reference to the Scotland and Northern Ireland position where different.

### **I. Agricultural Policy**

1. To what extent is there social and political acceptance of market management instruments and agricultural aid in your country?

A Current Affairs investigation in to farming subsidies in the UK revealed that across the UK 889 landowners received more than £250,000 in 2012. This reporting of substantial direct payments was met with public critique but these head line figures mask the reality of the position of the majority of farmers across the UK, many of which are still what may be regarded as family farms. This has led to the European Commission capping subsidies at a European level and this is something which has been implemented rigorously by the UK in this current round of reform. This is due to the need to show the public that farming subsidies are proportionate and justifiable especially in a society which is facing significant cut backs all areas of their expenditure.

Society is however more conscious of the need to ensure food security but at a time when commodity prices in the UK and globally across all sectors is particularly bad, more needs to be done to ensure that farmers are supported via agricultural aid and engaging the public in that discussion is crucial so that they recognise the value of the food provision and wider public goods provided by the agricultural industry.

“Although the public perception of farming as a sector has improved, more needs to be done to engage school age children in particular to take an interest in where their food comes from. As a career farming is often still seen as unrewarding and low paid, so more effort is needed to convey the high tech, innovative nature of the modern farming sector and the worthwhile career opportunities on offer.” [Future of Farming Review Report: Defra July 2013]

It is important to recognise the need for younger people to enter in to the agricultural industry and education at an early age of all within society as to the value and importance of food and its provenance is crucial for the future. More can be done in this respect.

2. How is the CAP reform of 2013 perceived in terms of agricultural policy in your country?

It is important to stress although this should have been a policy implemented in 2013 it in reality was implemented in 2015 and that has had a major impact on farm business structures, investment in agriculture, succession planning within farming families and land tenure within the UK. The long anticipated implementation of the reforms and the difficulties which arose in particular within certain regions of the UK as they moved from historic payments to flat-rate or regional payments has been a particularly difficult one. For example, there was an application for judicial review in Wales, which led to the legislative framework that was proposed for the implementation of payments in 2015, being quashed in its entirety and the Welsh Government consulting for a second time on the proposals for implementation. This has led to a significant amount of disquiet among farmers as to 'fairness' in terms of the how the CAP is divided between them.

From a key industry stakeholders and professionals point of view it is safe to say that for many due to the last minute nature of decisions in respect of key policy and legislative aspects, it has been a very difficult and painful practical implementation process, probably the most complicated seen by most since MacSharry in 1992. In England, in 2015, the computer system for submitting applications for the Basic Payment Scheme online did not prove effective and the English administration opted to change to paper based applications at the last minute and utilised the 1 month extension allowed by the European Commission so that applicants had until 15<sup>th</sup> June 2015 to submit their applications. In contrast, Wales had an option online application system and report that 70% of applicants utilised the online system to make their applications. This is a significant number given the lack of access to broadband facilities across large parts of Wales.

3. What have been the consequences of the CAP reform of 2013 (In non-member states: what are the effects of agricultural aids) on the income structure of farmers in your country?

The implementation of CAP Reform has had a varying impact across the devolved regions of the UK. For England, who had already made the move to a flat rate payment based on three payment regions of Moorland, Severely Disadvantaged Areas and Disadvantaged Areas/Lowland they have continued with the same payment model. This enabled them to roll-over existing payment entitlements and so those farming prior to the reform and after who could still show they had the equivalent number of hectares to their payment entitlements were able to successfully activate and have allocated to them payment entitlements under the Basic Payment Schemes. There has therefore as a result not been a major change in the income structure of farmers within England with payment rates staying similar to that received previously per region.

For Wales, this was a different matter implementation of the Basic Payment Scheme has moved from an historic basis, still being based on the reference period 2000-2002 to a flat-

rate system. As will be discussed below under legislative framework, this has resulted in a significant shift of money, under the eventual implementation proposals, from lowland areas to upland areas. This is because the final model proposed further to a second consultation was to implement a flat rate payment by 2019, coupled with a redistributive payment covering the first 54 hectares of each claim. The Welsh Minister that this “offers the best balance of meeting our policy and operational requirements on the one hand, and addressing feedback from the stakeholder consultation on the other.”[Consultation Decision: 7 July 2015] There is a possibility of a further judicial review of this decision and confirmation as to whether this is being pursued is awaited.

4. Are there already views in your country on the further development of the CAP (and, in particular, the mid-term review)?

It was of particular concern for farmers, that Government, even in 2014 before the CAP Reform 2013 was implemented, was actively discussing what should happen post 2020 and the issues to be dealt with by way of a mid-term review. Farmers are seeking certainty, especially given the 4 year implementation of CAP Reform 2013, so that they can make decisions about their businesses going forward in the knowledge that they will have at least a stable CAP until 2020. It is therefore encouraging that Commissioner Phil Hogan takes a similar view: “I’d be in favour of continuing to implement the present proposals that were agreed only as recently as last June. It’s not good for market certainty or for farmers to have too many changes in quick succession. We have been bedevilled a bit by that over the last 20 years. I think now is an opportunity for some stability.”

Of course, there may be an advantage to a Mid-Term Review which addressed some of the issues which have arisen from the CAP Reform 2013 in particular matters relating to greening and how to reduce the ‘red-tape’ and paperwork associated with that and other aspects of the CAP. Fine tuning may be required. There is consistent talk about ‘simplification’ but rarely anything done about this in practice. A Mid-Term Review that dealt practical simplification must be a priority.

One of the main focuses will also be on jobs, growth, investment and competitiveness not least to further justify the role that the CAP plays within our rural UK economy. Volatility of market prices will it is hoped inevitably flavour this discussion and lead the direction of the cap towards food security going forward. Consideration of course will have to be given to what is occurring at the international World Trade Organisation level.

## **II. Legal Structure**

5. Which legal acts implement the CAP reform of 2013 in your country? (In non-member states: how is the law governing agricultural aid enacted?)

England

## The Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014 (in force 1.1.15)

### Wales

Originally implementation was via the Common Agricultural Policy Basic Payment Scheme (Provisional Payment Region Classification) (Wales) Regulations 2014, SI 2014/1835 (W.189) (as amended by the Common Agricultural Policy Basic Payment Scheme (Provisional Payment Region Classification) (Wales) (Amendment) Regulations 2014, SI 2014/2367 (W.230) however these were revoked further to settlement before Court of an application for judicial review by a group of moorland farmers. By a Written Statement - Judicial Review of the Basic Payment Scheme, Rebecca Evans, Deputy Minister for Farming and Food (12 December 2015) announced that the legislation in place at that time would be quashed and that a new and fresh consultation process would be invoked to reconsider the implementation of the Basic Payment Scheme in Wales. The Regulations had defined three different regions for the purposes of direct payments to farmers under the Basic Payment Scheme. That application for judicial review was settled by the Welsh Government in favour of the applicants whereby the Regulations were quashed and the proposed method of splitting direct payments in Wales by region was abandoned pending further consultation. We understand that the applicants had challenged the definition of the “moorland” region which provided that only land with an altitude of 400m or above constitutes moorland (“the 400m criterion”) and not the principle of splitting the direct payment according to region. It is not understood, given the specific basis of the challenge made, why the Welsh Government decided to abolish that proposed model as whole rather than the definition of various regions themselves.

Further to the Consultation, it was announced on 7<sup>th</sup> July 2015 that Wales would opt for a flat rate one region model with redistributive payment on the first 54 hectares of land per applicant.

In the meantime, legislation was passed by the Welsh Government, which came in to force on 14<sup>th</sup> May 2015 for the purposes of implementing the scheme. Applications were due to be submitted by 15<sup>th</sup> May 2015 with no extension of time allowed in Wales and hence the majority of the application process was done on the basis of guidance alone. The Regulations were [T]he Common Agricultural Policy Basic Payment and Support Schemes (Wales) Regulations 2015 1252 (W.84)

6. What is the national definition of “active farmer” for the purposes of art. 9 of Regulation No. 1307/2013? (In non-member states: how does your legal system define beneficiaries of agricultural aid?)

In addition to satisfying the active farmer requirement, the farmer must also show that they are undertaking an ‘agricultural activity’ and this forms and important part of the ‘active farmer’ test. The claimant must satisfy the following:

- a. Producing, rearing or growing agricultural products; or

- b. Maintaining agricultural area in a state that makes it suitable for grazing or cultivation without any particular preparatory action; or
- c. Carrying out a minimum activity on agricultural area that is naturally kept in a state suitable for grazing or cultivation

Interestingly, in England it was decided that there was no such thing as naturally kept land and as such option c was not available to farmers in England. Whereas in Wales, farmers who occupied salt marshes for example could show they were undertaking ‘agricultural activity under c. above. Also in Wales, option b. was stated to require “control non-native invasive weeds and scrub, ensure land has stock proof boundaries and a water source for livestock”.

In terms of the ‘active farmer’ test itself, it utilised the negative list approach with farmers who could show that they did not operate any of the following activities on their holdings automatically qualifying as an ‘active farmer’.

- a. Railway services; Includes: licensed train operators, rail infrastructure owners and operators, rolling stock leasing companies, any other business (including charities) operating a timetabled railway service on standard or narrow gauge track (including heritage railways). Does not include: tramways, miniature railways
- b. Airports; Includes: airports licensed by the Civil Aviation Authority. Does not include: military airbases, unlicensed aerodromes and landing strips
- c. Waterworks: Includes selling water to a third party. Does not include abstracting water for your own purposes
- d. Real Estate Services: Includes professional property developers, Real estate agencies, Natural/legal persons managing real estate on a fee or contract basis. Does not include renting out agricultural land to third parties, Renting out accommodation facilities on farm, holiday homes, part of buildings or surfaces
- e. Permanent Sport and Recreational Grounds: Includes “specialised operators of permanently existing areas of land with permanent fixtures and/or permanent artificial structures for spectators that are being used for a purpose of sport and recreational activities”. Those not included are:
  - any facility for a farmer’s personal use only
  - buildings storing recreational equipment (bicycles, kayaks, boats or show jumps)
  - cinemas, theatres, billiard rooms, bowling alleys, bars, museums, libraries
  - arenas for sport or recreation that are entirely indoors (such as squash, indoor football or dressage)
  - car parks
  - fields or moorland on which game shooting takes place
  - lakes, rivers or banks used for swimming, fishing, rowing, sailing, canoeing
  - linear trails for motorsport, cycling, walking, running, horse riding
  - outdoor swimming pool
  - wooded or non-agricultural areas used for the breeding of birds for shooting

Included are:

Camping grounds and caravan sites

- If specifically for this use (and maintained throughout the year for the use) and there are permanent structures such as toilet and washing blocks.

Cricket, football or rugby pitch

- If the pitch is maintained throughout the year for cricket, football or rugby and there are permanent structures such as a spectator stand or pavilion.

Cross-country jumping course

- If the cross-country course is permanent and maintained for this purpose and there are permanent structures such as a spectator stand.

Fields or village greens used for village fêtes, music festivals, sports days

- If specifically for and maintained throughout the year to be suitable for sporting or recreational use, with permanent fixtures or structures for enjoyment or spectating.

Formal or ornamental gardens (for public use or paid access)

- If maintained for visits by the public or paying guests and there are permanent structures such as a shop or toilets specifically for the use of visitors.

Golf course

- If the course is maintained for golf throughout the year, and there are permanent structures for the use of players or visitors such as a club house, driving range with nets or stalls, or a spectator stand.

Manège (surfaced riding arena)

- If it includes a permanent structure such as a spectator stand, judge's cabin or stables provided for the use of visiting participants.

Nature reserve

- If maintained as a nature reserve and there are permanent structures such as viewing hides.

Point-to-point courses, eventing course

- If the course is permanent and maintained for this purpose and there are permanent structures to enjoy the sport such as a spectator stand.

Shooting ranges, clay pigeon shooting

- If the range is maintained throughout the year for shooting and there are permanent structures for shooting such as shooting stalls or targets.

Stables and/or livery stables

- If they include grounds such as a manège with permanent facilities like a judge's cabin or spectator seating.

Track (enclosing an area of land) for motorsport, speedway, cycling, running, horse riding

- If the area of land enclosed is maintained for this purpose and there are permanent structures such as a spectator stand or saddling boxes.

Waterpark

- A complex of pools and other permanent structures (such as slides) is a ground specifically for recreation.

Woods, quarries or other non-agricultural areas used for recreation (such as paintball, orienteering, climbing, assault courses)

- If the area is maintained for this purpose and there are permanent structures such as a cabin or changing rooms.

## Re-qualification as an Active Farmer

Even if a BPS claimant is operating a “negative list” activity, they can still re-qualify as an “active farmer” if one of the following applies:

- their total agricultural receipts were at least 40% of their total receipts in their most recent financial year (no more than 3 years before the year of their application); or
- in their most recent financial year (no more than 3 years before the year of their application) the value of their SPS claim (before any penalties or cross compliance reductions) was equivalent to at least 5% of their total non-agricultural receipts. Farmers who didn't claim SPS in their most recent financial year could still qualify under this exception – call RPA for more information; or
- You have 36 hectare or more of eligible land if in England or 21 hectare or more of eligible land if in Wales.

Option three above in terms of re-qualification was a tick box exercise on this year's Single Application Form and therefore was an easy option for those that were able to re-qualify via that route.

7. How is “degressivity”/“capping” in art. 11 of Regulation No. 1307/2013 being implemented in your country? (In non-member states: are small and medium-sized enterprises being promoted by specific support measures?)

In England, capping will up to € 150,000 be 0% and over €150,000 at 5%. In Wales, over €150,000 to €200,000 will be capped at 15%, €200,000 – €250,000 will be capped at 30%, €250,000 – €300,000 will be capped at 55 and €300,000 + will be capped at 100%. In Wales, this represents substantial increased and optional capping rates above the 150,000 Euros.

8. How are young farmers supported in your country?

Young farmers are supported in two main ways:

First, under the Basic Payment Scheme a young farmer was eligible for a Young Farmer Top-Up if they could show that they were

- are at least 18 years old when they make their 2015 BPS application, but not more than 40 years old in 2015 (they cannot become 41 years old during 2015 )
- are in ‘control’ of the farm business that is applying for BPS. (This can be as a sole trader), and
- set up or took ‘control’ of their business for the first time on 1 January 2010 or later

England

Top-up Worth - 25% of the average value of a farmer's entitlements they use to claim BPS (only counting their first 90 entitlements). The exact percentage will depend on how many farmers apply and this will be confirmed later this year.

There is also a specific National Reserve category for Young Farmers being those who are 40 years or less in 2015 who are setting up for the first time as head of holding or have control of a partnership/legal person (e.g. limited company) in the 5 years before submitting their first application for BPS. This could be setting up a new business or taking over an existing business. This enabled those who had not previously been claimants under the Single Payment Scheme to gain access to the new BPS. It is hoped that this will be an option available in each payment year under the new BPS to encourage new entrants into the agricultural industry within the UK as purchasing or leasing entitlements can be too expensive to enable young farmers to gain access to them via that market route.

Secondly, a young farmer support scheme is proposed under the Rural Development Plans of both England and Wales. The finer details of that scheme are due to be announced shortly but will offer capital grants for those wishing to set up as farmers for the first time. This development is to be encouraged and shows investment in the future of the agricultural industry.

9. Are any funds for direct payments used for coupled support in your country?

There is no coupled support being offered in England or Wales

Scotland has however opted to utilise this option with a Voluntary Coupled Support (Beef) - a Mainland scheme and an Islands scheme. Beef producers who farm in certain areas that are classed as economically or environmentally vulnerable are eligible to receive additional support on top of the Basic Payment Scheme. The extra payments aim to help farmers maintain the social and environmental benefits that beef herds bring to those areas. There is also a Voluntary Coupled Support (Sheep) scheme for sheep farmers who farm on Scotland's most challenging land. The extra payments aim to help farmers maintain the social and environmental benefits that sheep flocks bring to those areas.

10. How is the small farmer's scheme in art. 61 ff. of Regulation No. 1307/2013 being implemented in your country? (In non-member states: are there simplified rules for small enterprises in your country?)

None of the UK Regions have chosen to implement this option.

11. What consequences does the phasing-out of the milk quota system have in your country, with particular reference to producer organisations and interbranch organisations?

The end of quotas, for example, does pose the question that if more milk is being produced, are we doing everything we should be doing to maximise the understanding of dairy foods

and drive up demand? For the UK, the main concern is how other EU countries will react to the end of quotas we are still not yet quite in a position to analyse this fully from an UK perspective. The current low milk prices, in some cases 12p/litre there is a dairy crisis within the UK and dairy farmers are struggling to survive the current downturn in prices. This is not believed to be directly linked to the end of quotas but has more to do with global issues of supply and demand.

12. To what extent is the shifting of funds from the first to the second pillar possible and is this considered to be reasonable in terms of agricultural policy?

Each region within the UK is utilizing this option and has decided to shift funds from the first to the second pillar for the purposes of further funding their rural development policies. As a result of this significant transfer of money from Pillar 1 to Pillar 2, there have been interesting and original schemes being offered within the Rural Development policy with the aim of ensuring that the agricultural industry within the UK is dynamic, entrepreneurial, and innovative in addition to the expected environmental protection and enhancement mechanisms. There are exciting opportunities available with capital grants being offered to farmers who engage in improving and developing their farming businesses. The focus is also on the role that those farming businesses play within their rural communities as a whole and how to ensure that they are providing an important resource in terms of economic development in those areas through employment and social benefits. Modulation in England is set at 12% and Wales at 15% until 2018.

### **III.Greening**

13. Is the greening of agriculture being promoted separately? How has the greening component in art. 43 ff. of Regulation No. 1307/2013 been implemented? Have “equivalent practices” been recognised?

Organic Farming given the requirement to undergo a specific certification procedure has been deemed to automatically satisfy the greening requirements and as such is the only equivalent practice recognised in the UK.

In terms of greening the following apply:

1. Permanent Grassland – this is calculated on regional level. It is defined as land used to grow grasses or other herbaceous forage, and land which is not included in crop rotation for 5 years or more. Note: re-seeding or consecutive leys does not break the 5 years.
2. Crop Diversification – this requirement must be met if more than 10 hectares is arable (subject to certain exemptions). Between 10ha and 30ha at least 2 crops must be grown. Over 30ha at least 3 crops must be grown. There have been issues with implementation in terms of the classification of crops and distinguishing between different crops and ensuring practical adherence given weather constraints for planting crops etc.
3. Ecological Focus Areas – applies where more than 15ha is arable unless exemptions apply. For 2015 and 2016 the requirement will be at least 5% of the arable area will need to

be managed as EFA. There are a list of EFA measures to choose from and there has been considerable confusion and uncertainty as to the practical implementation of EFA areas.

14. Does your country provide additional payments for areas with natural constraints?

This option has not been utilised by the UK Regions in their implementation. However, 85% of Scotland's agricultural land is currently classed as less favoured areas and support through the Less Favoured Area Support Scheme is important to the economy of rural and remote communities throughout Scotland. They have therefore established a stakeholder ANC Working Group to consider the options for the new designation and scheme and hope to consult on this in 2016 with a view to implementing an ANC scheme by 2018.

### **Enforcement and Transparency**

15. Are there any specific enforcement problems in your country concerning the control of agricultural aid?

Cross compliance continues to be a requirement under the new Basic Payment Scheme. In addition to this 30% of the direct payment will be conditioned on the claimant satisfying the greening rules. It applies to all of the BPS claimant's eligible hectares not just the area used to claim BPS. No 'double funding' is allowed and therefore a measure under Pillar 1 cannot also be paid for under Pillar 2. The maximum penalties proposed are 100% of the green payment in 2015 and 2016, 120% in 2017 and 125% in 2018. This will lead to significant payment reductions under the new CAP. This time there will not only be cross compliance but also greening to satisfy in terms of conditionality and that will inevitably lead to increased penalties.

16. Is the information on beneficiaries of agricultural aid being published and, if so, to what extent?

In accordance with accordance with [EU Regulation No. 1306/2013](#) and [Commission Regulation No. 908/2014](#) the details of beneficiaries is provided on one central website which currently relates to subsidy payments made to beneficiaries during the EU financial year 16 October 2013 to 15 October 2014. The total amount received by each beneficiary is shown under three headings: direct aid (e.g. the Single Payment Scheme), market schemes and rural development measures. These headings can be expanded to show the amounts paid under each CAP scheme or measure. It is possible to search using a number of criteria or alternatively download the full set of data in a spreadsheet format. As required by the EU Regulations, the names of beneficiaries who receive less than the equivalent of €1,250 (£1,045) in total subsidy during the year are not shown on the website. In these cases details of the amounts paid to these beneficiaries are included, but with their name removed.

The website is available via: <http://www.cap-payments.defra.gov.uk/Default.aspx>

17. Who provides advice for farmers on the legal framework governing market organisations in your country?

In England, farmers have access to the Rural Payments Agency via their Contact Centre and Helpline number. The same applies in Wales but in Wales, a Farm Liaison Service is available to assist farmers who have more complicated or queries which cannot be dealt with via the Helpline. They provide support on issues such as these include BPS, Rural Payments Wales Online, cross compliance, animal health and welfare, record-keeping, Rural Development Programme and scheme rules.

Their staff are based at Welsh Government divisional offices, but they are regular attendees of many of the main livestock markets in Wales, regional agricultural shows and numerous Farming Connect events. Farming Connect also offers a framework for the provision of education and knowledge transfer as part of the Rural Development Programme in Wales.