

FARMING

Devil in the detail as plans for retirement payments unveiled



Hugh Townsend reacts as the Government launches a consultation on new 'exit payments' for farmers

ON May 19, the Government gave more detail of what we have been calling the "exit support scheme". This will provide a lump sum payment to farmers meeting a set of criteria which the Government considers to constitute retirement from farming. Details of "delinked" payments after 2024 have also been given.

This information is contained in documents for a consultation which also began on May 19 and will run until August 11, 2021. Therefore, all information below is still subject to consultation.

Retirement lump sum

- Payment cap of £100,000.
- Payment will be 2.35 times of the payment received for the reference period, 2018-2020.
- Entitlements must be surrendered.
- Land must be sold/gifted/rented out.
- Up to 5ha or 5% of agricultural land can be retained.
- Non-agricultural property can be retained including the farmhouse.
- Applications can be made at the beginning of 2022.
- Applicants need to have claimed BPS in 2015 (exemption for inheritance and successions to AHA tenancies).
- Transfers of land or tenancies do not need to have taken place by application.
- Transfer period options being considered are up to either 12, 18 or 24 months.
- Lump sum recipients cannot claim new CS or SFI or enter ELMS until after 2027, or add new land to existing agreements, without repaying the lump sum.
- A new farmer taking on the land can claim BPS with their own or purchased entitlements and enter into CS, SFI and ELMS etc.
- Lump sum recipients can still work for other farmers or as a contractor.
- Tax implications are yet to be announced.
- There will be a percentage reduction of the lump sum if entitlements have been transferred out after the



> Under the proposals, British farmers will be paid up to £100,000 to help them retire or leave the industry Getty Images

reference period i.e. in 2021.

- Directors of limited companies and all partners of a partnership will not be able to claim any Direct payments until after 2027 where a lump sum has been claimed.
- Artificiality prevention measures will be introduced.
- All points are still subject to consultation.

Defra have announced their intentions for the value of this payment. It will be the average of the payments received from 2018-2020, multiplied by 2.35. For a claimant whose annual payment has not exceeded £150,000 in any year and whose holding has remained the same size over the period, this equates to £546.56/ha, or approximately £33,000 for a 150-acre farm.

Defra intends this lump sum payment to be made to farmers "retiring" from farming. However, their definition of retiring is quite specific. Farmers can "retire" by selling or giving away their existing holding, surrendering their existing tenancy, passing their AHA tenancy to a successor or letting their land out on an FBT of five years or more.

They will also be unable to claim the BPS or any ELMS funding for the remainder of the transition period (so until 2027), and if Countryside Stewardship claims are possible, they will be much more limited.

This may allow letting of the land to a relative or immediate successor for five years only, who would perhaps then claim the BPS on it, with little practical change to how the business is run. Entering into a long-term "naked-acre" agreement may also be a possibility. This would mean the retirement lump sum would be claimed by renting the land out to another claimant with

excess entitlements who would then hire the landowner as a contractor. Defra wish to guard against "artificial" changes to businesses, intended to maximise the lump sum, which might include either of these options. Their discussion of this artificiality in their document is limited to restructuring of partnerships, companies and share farming arrangements, but other potential forms of "artificiality" may still have been considered. Tax implications of the lump sum are yet to be confirmed. Once full details are available after consultation, careful consideration will be needed if looking at either of these options.

Farmers claiming the lump sum may be allowed to keep up to 5% of their agricultural land up to a maximum 5ha (depending on the size of the holding they have surrendered) and may be able to keep claiming on an existing CS agreement on this land (although this is not yet confirmed). They may also still be able to live in the farmhouse if this has been their primary residence. Defra does not intend claimants to have to give up any non-agricultural activity, so diversifications such as barns let out for commercial use, holiday lettings and fields used for renewable energy generation may still be retained while claiming the payment.

Defra does not wish to continue paying the BPS on entitlements that belonged to farmers who claimed the lump sum.

If entitlements have been sold or transferred after the reference period, ie 2021, this will result in a reduction to the lump sum.

The retirement lump sum is a one-off and will only be available in 2022, further rules of how it will work are

expected in October with applications in early 2022.

New and young farmer claims

Defra intends to no longer issue National Reserve allocations to new and young farmers from 2022. However, they say they are in the process of developing a new entrants' scheme, details of which will be announced later this year.

Delinkage

- Payments will be based on a reference period and apply to all farmers/claimants of BPS.
- Options for reference periods being considered are 2018-2020, 2018-2022 or just 2022.
- Claimants must still be farming at the end of the reference period and if this is earlier than 2023 also in 2023.
- Tenants who were still farming in 2023 and claimed in the reference period will receive payment, rather than their landlords.
- New entrants after the reference period will not be eligible.
- The payment will be in tapering annual instalments, rather than a single lump sum.
- Recipients no longer required to farm or own the land from 2024.
- Cross Compliance will end in 2024. Other means of regulation are currently being considered.
- Exact payment figures are yet to be confirmed.
- All points are still subject to consultation.

Defra have confirmed this will begin from 2024, meaning that 2023 is to be the last year of BPS claims. The delinked payment will be made annually, rather than as a lump sum, and will be progressively reduced until 2027, which will be its final year.

The value of the delinkage payment will be calculated from a reference period (rather than from the current area-based payment of £233 as paid in 2020) to which percentage reductions will then be applied according to the year in which the payment will be made i.e 2024 through to 2027. Defra's consultation document hints that the reference period will run up to 2022. In 2024, the delinkage payment for most claimants will be 50% of their average payment during the reference period before reductions including the current tiered reductions. 2025, 2026 and 2027 will see reducing payments as a smaller and smaller percentage of the reference period average, but Defra have yet to release exact figures.

Delinkage will only be available to claimants considered to be farming during the reference period. People who began farming after this period will not be eligible.

Both of these schemes could represent valuable sources of income if properly utilised. However, careful planning and estate management may be needed to make the most of them. The Retirement Lump Sum is more limited, however, than many may have hoped. This is because not only must entitlements be removed, but there is also no opportunity to transfer them to a successor or have that successor apply for new entitlements through the National Reserve. It appears, subject to the final detail, that the lump sum could be less than if claiming BPS payments, delinkage, and income from CS, ELMS pilots, etc. In many cases it will therefore still be better for succession to be handled by a transfer of entitlements, rather than the lump sum. Even long-term lettings may find it practical to transfer entitlements to the tenant and factor remaining BPS payments into the rent.

The most obvious beneficiaries of the scheme are therefore those planning to sell the farm, who might find the lump sum to be a useful increase on the market value of entitlements they would have received. Defra anticipates that some restructuring will naturally happen due to changes in farming subsidies in general. The art therefore will be restructuring in a manner that accounts for delinkage and the retirement lump sum without falling foul of artificiality rules.

In our opinion at this stage of the consultation the Retirement Lump Sum will not necessarily be attractive enough other than to those who were going to be retiring immediately. It is not yet certain if many more are going to retire that much earlier otherwise. However it is still early days and we will have to wait until the Autumn for things to become certain. As always the "devil is in the detail" and usually at the last minute of such processes.

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