Agricultural law in the UK (England and Wales): overview

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AGRICULTURAL POLICY

1. State whether and when your jurisdiction has joined the following:
   - The World Trade Organization.
   - The Food and Agriculture Organization of the United Nations.
   - The International Plant Protection Convention.
   - The Office International des Epizooties, also known as the World Animal Health Organization.

World Trade Organization (WTO)
The UK has been a member since 1 January 1995. The EU has also been a member since 1 January 1995.

Food and Agriculture Organization of the United Nations (FAO)
The UK has been a member since 1945. The EU became a member organisation on 26 November 1991.

International Plant Protection Convention (IPPC)
The UK has been a member since 7 September 1953. The EU became a member organisation on 6 Oct 2005.

Office International des Epizooties (IOE)/World Animal Health Organization
Great Britain joined on 25 January 1924. The European Commission has formal observer status at the IOE, which was established in 2004.

2. Describe the most recent national agricultural policy of your jurisdiction, in particular with respect to biotech crops and new crop growing technologies.

The UK Government has recently launched a new UK strategy for agricultural technologies. The government’s aim is for the UK to become a world leader in agricultural technology, innovation and sustainability; to increase productivity; and to contribute to global food security and international development.

The strategy sets out a range of actions for the newly created Agri-tech Leadership Council, industry, government and the science base to deliver its vision for the agri-tech sector. These actions include:

- Improving the translation of research into practice through a GBP70 million government investment in an Agri-Tech Catalyst, which will provide a single fund for projects.
- Establishing a Centre for Agricultural Informatics and Metrics of Sustainability.
- Increasing alignment of industry research funding with the public sector spend by increasing the understanding of what is being spent and where.
- Increasing UK export and inward investment performance through targeted sector support.

ACQUISITION OF AGRICULTURAL COMPANIES

3. Is the acquisition of domestic agricultural companies by foreign investors subject to special prior government approval(s)? Set out the approval procedures and the authorities involved.

National security review does not apply to the acquisition of domestic agricultural companies.

4. Describe if specific legal forms (such as co-operatives) are regulated or used in the agricultural sector and whether they are open to foreign investment.

There is no specific type of legal form which must be used in the agricultural sector and a variety of types of different forms are used.

Companies are regulated under the Companies Act 2006 and are open to foreign investment.

Partnerships are often used in a farming context and these are regulated by the Partnership Act 1890 and, less frequently in the agricultural sector, by the Limited Liability Partnership Act 2000.

Co-operatives must be registered by means of one of several legal forms, most often either under the Industrial and Provident Society Acts or companies limited by guarantee under the Companies Act 2006.

5. To what extent does competition (anti-trust) law apply to agriculture?

Competition law in the UK is derived from EU competition law. The Competition and Markets Authority (CMA) is the primary enforcer of competition law in the UK.

The key question to ask when considering whether a potential agreement is likely to infringe competition law is what effect it will have on competition in the relevant market and on consumers. The CMA recognises that many forms of collaboration will be beneficial, increasing efficiency and benefiting consumers.
The practices set out below would almost certainly infringe competition law. These can be regarded as the “black list” of things to be avoided to stay on the right side of the law:

- Anti-competitive agreements between companies where competitors fix prices or divide markets. The prohibition on anti-competitive agreements also extends to concerted practices. A concerted practice may exist where there is informal cooperation between competitors, for example, where sensitive commercial information may be exchanged or conveyed. This includes, in particular, any information that may reveal a business’s future commercial behaviour, such as its pricing or marketing strategy.

- Abuse of a dominant position in a relevant market by a business, particularly if this leads to the exclusion of actual and/or potential entrants.

Businesses that are found to have infringed the competition law can face significant financial penalties of up to 10% of worldwide turnover. In addition, businesses may also be exposed to damages claims by customers and/or competitors that have suffered loss as a result of anti-competitive behaviour. There are also some criminal offences relating to prohibited cartel arrangements.

Most forms of collaboration between businesses in the farming sector will not raise any competition problems. It is only where cooperation could significantly affect the competitive process (for example, collaborating to fix prices, share markets or limit production) that the CMA is likely to have concerns on the basis that consumers may be harmed by such collaboration.

Certain agreements between farmers or farmers’ associations are excluded from consideration under UK competition law, for example, those concerning:

- The production or sale of agricultural products (including livestock, dairy, meat and fish products as well as fruit and vegetables and other crops).

- The use of joint facilities for the storage, treatment and processing of agricultural products.

However, the exclusion only applies if the agreements meet certain conditions. The main conditions are set out below:

- The agreements are only between farmers or an association of farmers (not, for example, between farmers and processors, or slaughterhouses).

- The agreement must not involve an obligation on the farmers to charge identical prices for their products, although arrangements whereby farmers agree to sell through a cooperative and take whatever price the cooperative realises in the market should be acceptable.

Most marketing and sales agreements (often referred to as commercialisation agreements) will not raise competition concerns provided they do not involve price fixing. The agricultural exclusion (see above) may also apply to marketing or sales agreements.

Farmers’ cooperatives (within which, for example, farmers cooperate in the area of production, collection or processing of their products), joint production agreements and joint agreements for bulk buying of inputs have generally been recognised as pro-competitive structures, which allow farming businesses to compete more effectively against other suppliers. Accordingly, competition concerns are unlikely to arise unless the businesses involved have market power (such as a combined market share of more than 20%).

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**ACQUISITION OF AGRICULTURAL LAND**

**Sale and transfer of usage rights and ownership**

6. Set out the domestic laws that apply to the acquisition of:

   - Usage rights to agricultural land.

   - Ownership of agricultural land.

Generally, there are few restrictions on who can own land or usage rights in land in the UK.

The UK operates a system of land registration. Since 1925, the intention has been that all title to land should be registered at the Land Registry and that registration must be the only method of authenticating ownership of land in England and Wales. Land Registry entries not only confirm ownership but also detail attendant rights and liabilities that attach to the land. Those who wish to acquire land or rights in land will conduct a detailed investigation of the Land Registry’s entry for the land in question.

Agricultural leases are governed by two separate legislative regimes depending on whether the lease was granted before or after 1995. Leases granted before 12 July 1984 carry potential succession rights, which may result in the right for up to two further generations of farmers to occupy an agricultural holding.

7. Are there any legal restrictions on the acquisition of agricultural land (or usage rights) by a foreign (or foreign invested) party?

There are no legal restrictions on the acquisition of agricultural land.

8. Are there any compulsory tendering or prior approval procedures required for sale and purchase of agricultural land? Briefly describe these procedures and the approval authorities (if any).

There is no compulsory tendering or prior approval procedures required for a sale and purchase of agricultural land.

9. Does the law and/or regulations prescribe minimum land purchase prices if the (local) government sells agricultural land?

There is no law in place that prescribes minimum land purchase prices if the government sells agricultural land.

10. Is there a maximum term applicable to the lease (or use) of agricultural land?

The usage right to agricultural land acquired by foreign parties is transferrable. There is no maximum term applicable to the lease of agricultural land. Long leases are rare, but if occurring can have a term of up to 999 years. However, leases over 30 years are rare. New leases are normally granted for short terms, with the vast majority being for less than ten years.
11. In which circumstances can the government authorities expropriate agricultural land?

The government and certain bodies with statutory powers have rights to make compulsory purchase orders (CPOs). CPOs compel individuals to sell their land to the body that has made the order, so that that body can carry out a function which Parliament has decided is in the public interest. With agricultural land, this could be, for example, to build a new road, railway, housing development or other infrastructure or facility. The price is determined on a full compensatory basis.

**Tax and financing**

12. Which taxes apply with respect to the sale and transfer of land ownership (or usage rights)?

**VAT**

VAT is currently 20% in the UK. Residential property is exempt from VAT, but commercial and agricultural property can be subject to standard rated VAT if the following apply:

- The supplier is a taxable person, that is, either his turnover in the previous 12 months exceeds £62,000 (for the year beginning 6 April 2013) or he has an expectation that the value of his supplies in the next 30 days alone will exceed that level.
- The supply must have been made in the course of a business.
- There must have been a taxable supply. Land sales are generally exempt from VAT but there are supplies relating to agricultural land which will be standard rated, for example:
  - the grant of sporting rights;
  - the sale of a freehold interest in a non-residential building or civil engineering work which has been completed less than three years before the sale.

In addition, a landowner who is registered for VAT may decide to "opt to tax" the property concerned (a seller may choose to do this if the seller incurs input tax in relation to the land, as input tax may be recovered from HMRC if it relates to a VATable supply).

**Stamp Duty Land Tax (SDLT)**

SDLT is a tax on buyers and tenants, not on sellers and landlords. It must be paid to the UK tax authority, HMRC, within 30 days after completion (or "substantial performance") of a land transaction. Failure to do so not only incurs potential penalties and interest but will also prevent the land from being registered in the buyer's name at the Land Registry. The payment must accompany a return submitted to HMRC explaining the details of the transaction and the parties to it.

SDLT on land purchases is calculated on a "slab" basis, with the total value paid for a transaction determining the rate payable on the whole, not just on the relevant slice. This means that a GB£1 difference in price on a step between two tax bands can lead to a large difference in SDLT payable. For example, a price of GB£250,000 attracts SDLT of GB£2,500 (1%); a price of GB£250,001 attracts SDLT of GB£7,500 (3%).

SDLT is difficult to legitimately avoid, and avoidance schemes are usually quickly closed down by anti-avoidance legislation. However, SDLT may be reduced by, for example, apportioning some of the purchase price to chattels in the property (on a reasonable basis), or by claiming various reliefs.

**Inheritance tax (IHT)**

Inheritance tax is paid on an estate on a person's death. It is also sometimes payable on trusts or gifts made during an individual's lifetime. Tax is payable on estates valued at over GB£325,000, at a rate of 40% on the amount over this threshold or 36% if the estate qualifies for a reduced rate as a result of a charitable donation.

The main IHT reliefs that apply to farmers are business property relief (BPR) and agricultural property relief (APR).

APR relieves the agricultural value of agricultural land, buildings and houses, whereas BPR is available on all business assets (not just property) used in a trade. Where APR is available it takes priority over BPR but both reliefs can apply to the same asset so, for example, a field with development value may secure APR on its agricultural value, with BPR relieving any hope or development value on top. To qualify for BPR, the business must be more than 50% trading as opposed to holding investments. Development value is not based on the value of the crops. Development value is based on the value that a developer would be prepared to pay for the land to develop it.

APR can apply to both landlords and in-hand farmers. In the case of an owner/occupier, the agricultural property needs to be used for the purposes of agriculture for the two years leading up to the date of death or lifetime transfer, or for seven years in the case of a farm landlord. For APR, 100% relief is available in all cases except where the land is subject to a tenancy that pre-dates 1 September 1995.

BPR will only apply to businesses which are mainly trading, and are available on sole trader businesses and interests in a partnership as well as shares in unquoted trading companies. It is also available on land, buildings and machinery which are used by a partnership of which the deceased was a partner or by a company of which he had control. For BPR, the rate of relief is either 100% or 50% of the value transferred, depending on the nature of the relevant business property and who owns it.

**Capital Gains Tax (CGT)**

CGT is a tax on the gain or profit made by individuals when they sell or dispose of an asset. It is a tax on the difference between the value of the asset when the person acquired it and the value of the asset when they sold it. It is charged at a rate of 18% or 28% depending on the amount of the person's total income and gains.

One relief available is Entrepreneurs' Relief, which has the effect of CGT being charged at a rate of 10%. Broadly, ER is available on the disposal of businesses or shares in a business.

ER is only available on the sale of whole or part of a business, and not merely on assets which are used in that business. For example, if a farmer sold the whole of his farm business, this would qualify for ER, but if he only sold some fields and continued to farm on the rest of the land, this would be the sale of an asset and not the business.

13. Does your jurisdiction have special regulated agri/green-parks and is (foreign) investment in such parks incentivised? If so, what incentives apply in general?

The UK does not have special regulated agri/green-parks.

14. Briefly describe the procedures to mortgage/pledge agricultural land rights in order to acquire domestic financing.

**Mortgaging agricultural land**

Mortgages will be of freehold or leasehold land and buildings. They are the best form of security for a lender, and will defeat subsequently created security interests. Mortgages need to be registered at the Land Registry (and, if a company or LLP is granting a mortgage, at Companies House). Mortgages commonly...
contain a form of “restriction” which will prevent any dealings (including sale) with the land without the consent of the lender.

Agricultural charges

The Agricultural Credits Act 1928 allows sole traders and partnerships (but not corporate entities such as limited companies or LLPs) to create a unique form of security. These charges are quite specific in nature. Only a farmer (an owner or tenant of land who cultivates for profit) can create such charges, and only a deposit-taking bank is able to take them. In addition, they can only be given in respect of farming stock and other agricultural assets (for example, machinery, certain livestock and crops, but not a farmer’s bank account, entitlement to agricultural subsidies, land, leased assets or debts owed to the farmer).

All agricultural charges must be registered with the Agricultural Credits Department (Plymouth) within seven days of creation. If not registered it will be void against any third party but still enforceable by the bank against the farmer.

Debentures

A debenture is a composite document containing a combination of fixed and floating charges, usually over all of the assets of the borrower. This confers the advantage on the lender of being able to appoint an administrator over the borrower without the need for a court hearing. Debentures need to be registered at Companies House and (if real estate is included in the charged assets) also at the Land Registry.

CROP SEED BUSINESS

15. Which domestic laws and regulations regulate the crop seed industry and which domestic authorities/agencies supervise this sector?

The crop seed industry and the import and export of plants are under the supervision of the Food and Environment Research Agency (Fera), an executive agency of the Department for Environment, Food and Rural Affairs (Defra). The implementation of GM crops/seeds is governed by the wider EU regulatory framework for genetically modified material.

Movements of plants within the EU

The movement of plants and plant material within the EU is subject to reduced restrictions. Plant health checks are focused on the place of production, and there are no border checks for plants and plant products travelling between member states, although spot checks may take place. A limited range of material hosting the most serious “quarantine” pests and diseases (such as potatoes), requires a plant passport to facilitate its movement within the EU.

Movements of plants outside the EU

The restrictions and requirements relating to the import of plants and plant products from non-EU countries are laid down in the EU Plant Health Directive. They are implemented in England by the Plant Health (England) Order 2005. Broadly speaking for plant health purposes material falls into one of the following categories, according to the risk of introduction of pests and diseases:

- **Prohibited.** Poses such a serious risk that import is only permitted under authority of a licence issued by Fera or the Forestry Commissioners. Includes many species of root nod plant and trees from outside Europe. The list of prohibited plants is found in Schedules 1 to 3 of the Plant Health (England) Order 2005 and the Plant Health (Wales) Order 2006.

- **Controlled.** Normally requires a phytosanitary certificate issued by the plant protection service of the exporting country. This will specify that the plants are free of pests, diseases and soil. In the UK, these are issued by the Plant Health and Seeds Inspectorate. This category includes those cuttings, rooted plants and trees that are not prohibited, bulbs, most fruits, certain seeds and some cut flowers.

- **Unrestricted.** Presents little or no risk and is not subject to routine plant health controls. Includes nearly all flower seeds, some cut flowers and fruit and most vegetables for consumption (except potatoes).

All importers involved in the import of Plant Health controlled material must be registered with Fera Plant Health via the Procedure for Electronic Application for Certificates (PEACH) System. Importers must pre-notify each import of plant health restricted consignments on the electronic PEACH system before arrival. On entering the UK, the consignment will be inspected and, if it meets plant health regulations, a quarantine release certificate will be granted. This certificate is required by HMRC to secure the release of plant-health controlled consignments into free circulation.

The UK works with other EU member states in implementing international standards for phytosanitary measures (ISPMs) given that the UK’s Plant Health legislation is largely derived from EU legislation. Many of the ISPMs establish the concepts involved in creating and managing a plant health service, and so do not require specific implementation. Others, such as ISPM 15 on wood packaging material, have been implemented in EU legislation and transcribed into UK legislation. ISPMs are increasingly being quoted in EU legislation, and the current review of the EU Plant Health Law includes various references to ISPMs.

16. State the approvals/licences that are required to engage in the following activities:

- Import of new plant species or varieties and import of crop growing technologies.
- Set up of R&D centres and use of test plots of new crops.
- Crop seed production.
- Commercial crop production.
- Distribution of seeds or crops (wholesale/retail/e-commerce).

Import of new plant species or varieties and crop growing technologies

In the UK, new varieties of agricultural and vegetable species must be listed in the UK National Lists (or appear in the EU Common Catalogue) before they can be commercially exploited. “Commercially exploited” in this context means placed on the market (including: selling, holding with a view to sale or offering for sale or any disposal, supply or transfer of seed to a third party). It does not include contractual arrangements for multiplication and tests and trials. See Question 15 for import restrictions.

The UK National Lists are maintained by the Plant Variety Rights and Seeds Office (PVOS), which is part of Fera.


The EU Common Catalogue is compiled from the National Lists of all member states. It can be accessed at http://ec.europa.eu/food/plant/propagation/catalogues/databases/public/index.cfm/event=homepage.

The UK participates in the OECD seed schemes, which is aimed at promoting international trade in high quality seed between countries outside the EU. Fera is the designated authority for the UK. Fera is also the UK Accredited Authority for the International Seed Testing Association which establishes standards for seed.
sampling and testing which are accepted and implemented by all participating countries.

Importers of pesticides and dangerous chemicals must identify the hazards, provide information about them under the Classification, Labelling and Packaging of chemical substances and mixtures regulations and ensure they package the product safely. Importers or manufacturers of more than one tonne of chemicals a year must also register with the European Chemicals Agency.

**Set up of R&D centres and use of test plots of new crops**

There are no special approval or licensing requirements applicable to foreign parties involved in setting up crop R&D centres.

There are no specific approvals required for trials of new crops (meaning new species) in the UK. However, any import of seed or other planting material into the EU would be controlled by the plant health legislation and potentially by legislation for invasive species.

When grown commercially, marketing of the harvested produce of a new crop species or food produced from it would potentially come under EU novel foods legislation for which the Foods Standards Agency have responsibility in the UK. The novel foods legislation also applies to GM varieties.

There are detailed requirements for the marketing of seed and other reproductive material of crop species already grown in the EU. This covers all of the main food producing species and some industrial, amenity and conservation uses. The objectives are assuring the quality of reproductive material, for consumer protection and to support food production, and to drive plant breeding. Material used for research, such as field trials, is excluded from these marketing controls.

**Crop seed production**

In the UK, certification of seed is governed by the Seeds Regulations. A person or company can only apply to have seed certified if they are registered with the Defra. The following stages must then be completed for certification:

- **Listing stage.** The seed must be of a variety which is on a UK National List or the EU Common Catalogue (see above, Import of new plant species or varieties and crop growing technologies).

- **Crop stage.** The crop seed must have been inspected and a crop inspection report issued stating that it has met prescribed crop standards. At the crop stage, the crops must be sown with seed of a known pedigree which is appropriate for the category of seed which it is intended to produce. Seed crops will then be inspected by a qualified crop inspector to ensure that the crops meet appropriate standards of varietal purity, freedom from weeds and, where appropriate, they are adequately isolated from potential sources of cross-pollination. Typically, the crop is propagated for one or more cycles to test stability.

- **Seed stage.** A sample of the seed must have been tested and a seed test report issued stating that it met prescribed seed standards.

There is a category of vegetable seed termed “standard seed”. No official inspection or testing of the seed is required during production, though it must achieve the analytical, varietal purity and germination standards defined in the Seed Regulations before marketing.

**Commercial crop production**

Many aspects of commercial crop production are regulated (for example, in areas such as fertilisers, pesticides, fungicides, herbicides, waste disposal, food safety and labelling). Generally speaking a licence is not required for the production of most commercial crops.

One exception is that a licence from the Home Office is required for the growing of hemp for use as an industrial fibre. This is because hemp can also be used as a narcotic, and so a licensing system is in place to distinguish between industrial hemp and illegal cannabis.

**Distribution of seeds or crops**

EU Directives require that seed of the main agricultural plant species (this means species included in the UK National Lists/EU Common Catalogue) must be officially certified as having met certain quality standards before it is marketed. The UK’s official seed testing is based at the National Institute of Agriculture and Botany (NIAB) in Cambridge. Other satellite seed testing stations are in private ownership but supervised by NIAB. Seed production enterprises are not themselves subject to special licensing but all seed producers must comply with the laws on seed production. The directives define standards of purity and germination that the seed must meet in order to be certified.

The Seeds Marketing Regulations 2011 also cover the distribution of seeds. See Crop seed production and Question 17.

The Electronic Commerce (EC Directive) Regulations 2002 were enacted in response to the E-Commerce Directive. The aim is to regulate the provision of goods, services and information to consumers by electronic means by information society service providers’ (ISSP). An ISSP is defined as any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing and storage of data, at the request of the recipient of the service.

ISSPs must give detailed information to the consumer regarding its identity, location and contact details. ISSPs must refer to prices clearly and unambiguously and indicate whether they exclude tax or delivery costs.

ISSPs must also give certain information regarding any terms and conditions of the sale to the consumer prior to the placing of an order.

17. **Set out the domestic labelling requirements in the crop business sector.**

The provisions for seed packaging and labelling are contained in the Seeds Marketing Regulations 2011. All packages of certified seed and standard seed must be correctly packed, sealed and labelled by, or under the supervision of, a licensed seed sampler before the seed is marketed.

The information required on a seed package label depends on the seed variety, and whether the seed is pre-basic, basic, certified or standard. Generally labels must be a particular colour which relates to the seed category. There are two types of label for seed, official labels and supplier’s labels.

Most seed packages will need to have official labels, which are supplied by the Secretary of State through a commercial company. Supplier’s labels can be used on certain types of seed such as standard vegetable seed and certain small packages of certified seed.

If a variety has been genetically modified, this must be stated on the label. If seed has been subjected to any chemical treatment, this fact and the nature of the treatment or the proprietary name of the chemical used must be stated on the label.

18. **Are there any restrictions on foreign direct investment (FDI) in this sector?**

There are no restrictions on FDI in the UK.
19. Summarise landmark or recent cases that have defined the law and practice in this sector.

In the European Court of Justice (ECJ) case of Association Kokopelli v Graines Baumaux SAS (Case C-59/11) the ECJ reconfirmed that only seed which is accepted for inclusion in the National Lists of one or more of the member states may be traded within the EU.

The case involved a dispute in the French courts over the selling of “old seed varieties”, varieties that are not or no longer listed in the National Lists/EU Common Catalogue. Under EU law, these can only be traded under limited circumstances. The “old seed varieties” in this case did not fall into those circumstances and so the seller’s right to sell them was challenged.

The French courts referred the dispute to the ECJ to give a ruling on whether the principle that only seed of registered varieties may be traded within the EU is valid, taking into account the principles of proportionality, equal treatment, the freedom to pursue an economic activity and the free movement of goods. The ECJ ruled that the EU directives on the marketing of vegetable seed are valid, because there was sufficient derogation to allow the selling of old seed varieties in appropriate circumstances.

PLANT VARIETY RIGHTS (PVR)


The UK has ratified the UPOV and all its revisions.

21. Briefly describe the registration process for PVR in your jurisdiction.

Breeders of any species of plant, whether agricultural, horticultural or ornamental can apply for Plant Breeders Rights (PBR). These give the breeder legal rights in the UK over the varieties they have developed. The Plant Variety Rights Office administers PBRs in the UK.

If a breeder applies for PBR he must submit the following to the Plant Variety Rights Office:
- An application form.
- A completed technical questionnaire for the correct species of the plant variety
- A colour photograph of the representative features of the variety (for ornamental species)
- A sample of the plant material for testing at the later stages of the application process.

The candidate variety will be tested and considered by experts to check whether all the requirements have been met (see Question 22). Usually testing of ornamentals takes one year, heritage varieties four years, trees three years, and other species two years.

Proposed decisions will be announced through the UK National Lists and Seeds Committee on behalf of the Controller of Plant Variety Rights. Announcements of a proposal to grant rights will be published in the Plant Varieties and Seeds Gazette, which gives any person who can show that he or she has an interest in the decision the right to make written representations or to request a hearing in person against the proposed decision.

Alternatively, plant breeders can make a single application for Community Plant Variety Rights (CPVR) which gives protection throughout the EU. The Community Plant Variety Office, which has offices in France, administers CPVR.

CPVR and UK PBR are separate and a breeder cannot hold both simultaneously. Where CPVR is granted for a variety which already has a national PBR, the national rights are suspended for the duration of the CPVR.

22. Briefly describe the laws and procedures of your jurisdiction covering the protection of PVR in terms of:
- Requirements for protection.
- Extent of the protection.
- Restrictions on the rights of the PVR holder.
- Farmer’s privilege.

Requirements for protection

In order for Plant Breeder’s Rights (PBR) to be granted, the plant variety must have the following characteristics:
- Distinctness. A variety must have one or more major characteristics, which can be precisely described, that makes it different from any other variety “in common knowledge” (that is, it is not the subject of PBR in any country and is not entered in any official register of plant varieties in any country).
- Uniformity. A variety must be sufficiently uniform in the characteristics which make it distinct, subject to normal and expected variation.
- Stability. The plant characteristics which make it distinct must remain unchanged after repeated propagation.
- Novelty. It must not have been sold or otherwise exploited with the consent of the applicant:
  - in the UK, earlier than one year before the date of application;
  - outside the UK, earlier than four years (six years in the case of trees or vines) before the date of application.

Extent of the protection

PBR is valid for 25 years, except for trees, vines or potato varieties which will be protected for 30 years. Government ministers may, by regulations, extend the period for which rights have effect for a species or group, for a maximum of five years in total.

Restrictions on the rights of the PVR holder

The breeder has exclusive control over the seed but there is a research exemption which allows breeders to use protected varieties on sources of initial variation to create new varieties. There is also a compulsory auditing regime if required in the national interest.

PBR will only remain in force subject to the holder paying any relevant fees during the term of the rights, and fulfilling the requirements of the regulations, for example, regarding maintenance of the variety.

For a two-year period after PBR are granted, the PBR holder is free to decide who they will grant licences to, and any other terms and conditions. After this time, compulsory licences may be granted.

Any person who has applied for a licence to use a protected species and feels that the PBR holder has unreasonably refused to grant the licence or has imposed unreasonable terms, can apply for a compulsory licence. This will be granted if the applicant can show:
- A licence is necessary to ensure the variety is available to the public at a reasonable price, is widely distributed, or quality is maintained.
The applicant is in a position to, and intends to exploit the variety in a professional way.

**Farmer’s privilege**

Farmers are allowed to use seed saved for their own use to grow and harvest a crop. Farmers must declare their use of farm saved seed and pay royalties payments for their use of eligible varieties. Sharing, selling and exchanging farm saved seed is not permitted.

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**23. Which legal actions are available to owners of PVR in the event of PVR infringements?**

PBR entities the holder to prevent anyone doing the following acts to propagating material without authority:

- Production or reproduction (multiplication).
- Selling or other marketing.
- Conditioning for the purpose of propagation.
- Offering for sale.
- Exporting/importing.
- Stocking (for any of the purposes mentioned above).

PBRs are proprietary rights and the same remedies for infringement are available as for other proprietary rights, such as patents. A breeder who considers that his right has been infringed is able to take action against the infringer through the civil courts.

Relief is available by way of damages, injunction, interdict, account of profits or otherwise. The account of profits is normally undertaken under supervision of the court by independent experts.

The provisions on the remedies for infringement also apply in respect of rights to dependent varieties. Rights may also extend to harvested material obtained from the unauthorised use of propagating material, but only where the holder has not had reasonable opportunity to exercise rights. Ultimately it is for the courts to decide what constitutes “reasonable opportunity” in each case. An obvious example would be the unauthorised use of propagating material in a country which does not offer PVR protection to the species concerned, followed by import of that harvested material (such as cut flowers) into the UK.

Holders of PBRs can also request details of the source of suspect material by use of an information notice to help them establish whether harvested materials (for example, pot plants) have been obtained through authorised propagation. If the information is refused, without reasonable excuse, then in subsequent infringement proceedings the courts will presume the plants were obtained by illicit propagation unless the defendant can prove otherwise.

The UK has implemented the EU’s Biotech Directive by means of the Patents Regulations 2000 governing biological material including gene sequencing. Patenting gene sequences is not prohibited but must be decided on the basic issues of novelty, innovative step and industrial application as well as on the requirements that the description should be sufficient and should support the claims.

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**24. Summarise landmark or recent cases that have defined the law and practice in this sector.**

The 2012 European Court of Justice (ECJ) case of Geistbeck and another v Saatgut-Treuhandverwaltungs GmbH (Case C-505/10) concerned farmers’ privilege (see Question 22). The farmers in question were planting protected plant varieties. Rather than having to obtain a licence (for a fee), they were paying royalties to the rights-holder on the more favourable basis provided for farmers (known as ‘farmers privilege’ or the agricultural exception). However, the farmers had under-reported the amounts of protected plant which they had planted. The ECJ held that they had to pay reasonable compensation to the rights-holder on the same basis as a third party (that is, the cost of licence fees), because a farmer who has not fulfilled his reporting obligations under the Plant Variety Regulation could not rely on the privilege accruing to farmers.

**GENETICALLY MODIFIED (GM) CROPS**

**25. Has your jurisdiction ratified the Cartagena Protocol on Biosafety 2002? What is the domestic policy with respect to GM crops?**

The Protocol has been implemented through a number of biosafety laws, regulations and guidelines, at both a national and at EU level. Currently there are no GM crops grown commercially in the UK, however some are grown for research purposes. Generally, the UK government’s policy is that it will only agree to the planting of GM crops, the release of other types of GM organism, or the marketing of GM food or feed products, if a robust risk assessment indicates that it is safe for people and the environment. However, it recognises that GM technology could deliver benefits providing it is used safely and responsibly.

**26. Describe the domestic laws regulating genetic engineering. Which authority(ies) is(are) responsible for approving GM crops. Set out the permit requirements and prohibitions as well as sanctions in the event of infringement.**

If a person wishes to release a genetically modified organism (GMO) into the environment or market a GM product he must get formal authorisation before doing so. Applications for approval to market a product are assessed and decided on at EU level while applications to release a GMO for research and development purposes are considered at national level.

Consents to release GMOs into the environment for research purposes (for example, GM crop trials) are granted by the government. The process for an applicant is as follows:

- The applicant must submit its request for consent to the Secretary of State, together with a dossier of relevant information such as details of the GMO and the potential impact of its release.
- The Secretary of State will refer the matter to a committee of independent experts known as the Advisory Committee on Releases to the Environment (ACRE).
- ACRE will consider potential risks to human health or the environment, including factors such as toxicity, allergenicity, and the fate of any possible transfer of novel genes to other organisms.
- ACRE then publishes a report that sets out a summary of its findings in each case. This recommends the government either approves or denies the request, and may also contain conditions or monitoring measures that ACRE thinks should be included.
- The Secretary of State will make its decision to approve or deny the request.
- Applications for approval to market a product are assessed at EU level (see Question 27).

It is a criminal offence to market a GM product without authorisation, or to breach the conditions of an authorisation. The
penalty on summary conviction is imprisonment for a term not exceeding six months or a fine not exceeding level five on the standard scale (currently £5,000), or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both.

27. Which safety evaluations are legally required before GM crop commercial market entry? How are GM crops regulated?

The current procedures for evaluation and authorisation of genetically modified (GM) foods are laid down in EU legislation, and are considered at EU level, although there is input from UK authorities such as the Food Standards Agency (FSA).

There will be a detailed consideration of the potential for toxic, nutritional and allergenic effects of the GMO applied for. GM foods may only be authorised for sale if they are judged not to present a risk to health, not to mislead consumers, and not to be of less nutritional value than the foods they are intended to replace.

28. Describe the GM crop test plot regulations and requirements.

See Question 16, Set up of R&D centres and use of test plots of new crops.

29. Describe pre-market approval requirements (and approval timelines) to grow, produce and sell GM food or feed. Provide details on the competent approval authorities.

The safety assessments for authorisation to market a GM product are carried out by the European Food Safety Authority (EFSA), according to its published guidelines for the assessment of GM plants. The Food Standards Agency (FSA) is the UK competent authority under the GM Food and Feed Regulation. Any applications submitted through the UK will be received by the FSA, who will forward the request and the associated dossier of information to EFSA.

The FSA may be asked by EFSA to review the food and feed aspects of the dossier on its behalf, in which case it will take advice from its scientific advisory committees, the Advisory Committee on Novel Foods and Processes (ACNFP) and the Advisory Committee on Animal Feedingstuffs (ACAF).

Once EFSA’s opinion on an application is published, there is a period for public comment before a final decision on authorisation will be taken by the 25 EU member states by vote. Only two GM crops have been approved for commercial growing in the EU. One is a pest-resistant maize variety produced by Monsanto (known as MON810). This is grown mainly in Spain and is not suitable for growing in the UK because the pests it is resistant to do not occur in Britain.

The other GM crop is the Amflora potato which was approved for cultivation in the EU in 2010. However, in late 2013 the European Court annulled the authorisation, arguing it had not been granted lawfully.

There are therefore no GM crops grown commercially in the UK. However, there have been experimental trials of GM potatoes and wheat. In 2014, a trial of GM Camila sativa (“false flax”) was planned, which has a genetically altered oil content (high in omega-3).

A survey conducted by YouGov in June 2013 showed that:

- 35% people opposed GM food
- 44% people didn’t know or neither supported or opposed GM food.

30. Set out the domestic product genetically modified organism (GMO) content labelling obligations (or the absence of them) and sanctions in the event of non-compliance or inaccurate content labelling.

Under EU law, if a food contains or consists of genetically modified organisms (GMO), or contains ingredients produced from GMOs, this must be indicated on the label. This means products such as flour, oils and glucose syrups have to be labelled as GM if they are from a GM source. However, products produced with GM technology (for example, cheese produced with GM enzymes) do not have to be labelled. Products such as meat, milk and eggs from animals fed on GM feed also do not need to be labelled. For GM products sold loose, information must be displayed immediately next to the food to indicate that it is GM.

Labelling is not required where the presence of an authorised GMO is less than 0.9% of the food or feed ingredients considered individually or of food consisting of a single ingredient, provided that the presence is accidental or technically unavoidable (see Question 31).

There is no provision for “non-GM” and “GM free” labelling although this can lawfully be used on a voluntary basis if appropriate to the product.

Failure to comply with the GM food labelling regulations is an offence, which on conviction could lead to six months imprisonment and/or a fine not exceeding level five on the standard scale (currently £5,000).

31. Summarise landmark or recent cases that have defined the law and practice in this sector.

In the European Court of Justice (ECJ) case of Bablok and Ors. v Freistaat Bayern (Case C 442/09), the ECJ was asked to consider the implications arising from the discovery of small quantities of GM pollen from a nearby site in the claimants’ honey. Food which contains GMOs must be authorised before being placed on the market, and the food must also be GM labelled if the product contains more than 0.9% of GM ingredients. The claimants argued that the 0.9% labelling threshold should also apply to authorisation as well as labelling, so that products with accidental trace amounts of GMOs should not be put to the trouble and expense of authorisation. However, the court dismissed this argument and held that, because the honey contained GM ingredients, it did require authorisation.

IMPORTING ANIMALS AND GENE PATENTS

32. Summarise the import/export control measures for animals and genetic resources.

Trade between EU member states

Exporters wanting to move live animals, animal products and genetic material from one EU member state to another will generally need documentation in the form of health certification signed by a government approved “Official Veterinarian”, or in the case of some animal products some commercial documentation. The health certificates are known as Intra Trade Animal Health Certificates (ITAHCs). Identification of live animals in accordance with EU Regulations is inherent within the process.

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Controls on imports from non-EU countries

Exporters wanting to move live animals, animal products and genetic material to an EU member state from outside the EU will generally need certification, guaranteeing that the products have been tested for disease. Consignments are checked at official border inspection posts (BIPs), and all consignments must be pre-notified to the BIP in question. For animal genetic material, the import rules vary depending on the type of animal and whether the genetic material is semen, embryos or ova.

As an example, the importation of bovine semen from outside the EU is permitted provided that it:

- Comes from an approved third country or region.
- Comes from an EU approved collection centre and by approved teams under specified hygiene conditions.
- Is accompanied by agreed animal health certification which is signed by an official veterinarian of the veterinary authority in the country of origin.

Approvals of collection centres are carried out at EU level, but local authorities and the Animal Health and Veterinary Laboratories Agency are responsible for animal certification checks at a national level.

The UK is one of 178 IOE members and has adopted all IOE standards for animals contained in The Terrestrial Animal Health Code.

33. Does the law of your jurisdiction allow for patentability of livestock genes on the grounds of isolating and purifying them?

This area is covered by EU law, specifically the EU Patent (Biotech) Directive 98/44/EC. Patent laws in most European countries include a “research exception” which permits use of a patented invention for experimental purposes without infringing the rights of the holder. This follows the Community Patent Convention (CPC) of 1975. There are also further exceptions such as those in respect of private and non-commercial use. In the UK those acts which do not constitute an infringement are set out in section 60(5) of the Patents Act 1977.

Under section 60(5) of the Patents Act, an act will not infringe a patent if it is done for experimental purposes relating to the subject-matter of the invention. This is the UK’s “research exemption”.

In addition, an act will not infringe a patent if it consists of the use of an animal or animal reproductive material by a farmer for an agricultural purpose following a sale to the farmer, by the proprietor of the patent or with his consent, of breeding stock or other animal reproductive material which constitutes or contains the patented invention. This states that inventions containing “biological material” can be patentable and contains specific provisions on the patentability of genes. There are a number of studies in the UK which are researching and developing genetically modified (transgenic) animals. The Roslin Institute in Edinburgh has successfully developed transgenic chickens that do not transmit avian influenza virus to other chickens with which they are in contact. The Roslin institute publishes its genetic research and information, as well as providing chickens and eggs to interested parties.

The simple discovery that a gene sequence exists in nature, or the raw sequence information, will not be patentable. However, inventions concerning isolated genes which are identical to those found in nature may be patented, but all applications in this area must still satisfy the three general conditions for patentability namely, that they are new, involve an inventive step and are capable of industrial application. Both “animal varieties" and essentially biological processes for the production of animals are not eligible for patent protection.

34. Which legal instruments are available to protect animal breeding know-how and a resulting animal nucleus?

Animal breeding know-how and animal breed data is freely available from various organisations. For example, Holstein UK’s website contains a large amount of data and guidance on dairy cattle breeding and breeds. The maintenance of herd books in the UK pre-dates membership of the EU but is now part of the EU framework. The recognition of member states’ herd books all maintained to common standards is central to intra-Community trade in pedigree livestock such as bovines. Typically, herd books in the UK are set up and maintained by a body with charitable status with the charitable objective for furtherance of the breed. As a consequence the information help by the charity is held for the general good of the breed and is generally available.

There is no specific legislation relating to the protection of nucleus herds, but the general law of private property offers protection in this regard.

35. Are there legal or practical restrictions on the introduction of new breeds/species, the breeding of certain animal species or certain breeding practices?

In December 2013, the EU Commission decided not to take measures to restrict meat or milk from cows, sheep or pigs that are the descendants of cloned animals. Food products of offspring of cloned animals also do not need to be labelled as such. Some species of animals which are not native to the UK may have controls which prohibit their release and control how they may be kept or used within the UK.

Products and live animals generally can only be imported from countries which are on the approved third country import list for that product or animal species.

EU Commission Decision 2003/100/EC required member states to implement breeding programmes against susceptibility to transmissible spongiform encephalopathies (TSEs) in sheep. The UK Government had already launched the National Scrapie Plan in July 2001 (scrapie is a disease found in sheep) which aimed to reduce the frequency of the allele most associated with susceptibility to scrapie and increase that of the one conferring least risk. The strategy was to genotype individual rams and a cryobank was established for sperm from rams, nominated by breed societies, of susceptible genotypes that would be culled.

For information on restrictions on genetically modified organisms, see Questions 25 to 30.

36. Summarise landmark or recent cases that have defined the law and practice in this sector.

There is no relevant UK national court case.

In the European Court of Justice (ECJ) case of Monsanto Technology LLC v Cafetra BV and others (C-428/08) the ECJ ruled that patents for genetic sequences only afford protection in EU member states to the extent that the patented gene is performing the function for which it has been patented.

In this case, a company owned a patent for a gene which gave soya resistance to one of the company’s own herbicides. It claimed that another company had infringed its patent by importing a soya meal global.practicallaw.com/agriculture-guide
containing traces of the gene. The alleged infringer company argued that, as the gene was not performing the function for which it had been patented (that is, conferring resistance to the herbicide on a living plant), there was no infringement. The ECJ agreed. It held that Article 9 of the EU Patent Directive 98/44/EC should be interpreted narrowly, holding that the word “performs” should be interpreted as in its present tense, and that therefore the patented gene must be performing its function to be protected under the patent.

**AGRICULTURAL SAFETY AND PRODUCT LIABILITY Standards**

37. Summarise the system of food safety standard setting, the main regulator(s) and regulations. If industry input on the standards is possible, indicate how this is conducted.

The food and drink industry is heavily regulated in the UK and that regulation covers all parts of the food production, distribution and retail chain. There is a large amount of legislation and regulation, as well as codes of practice and guidance that regulate food, drink and animal feed. The same food safety and product liability laws apply to agricultural produce and food.

All food businesses must comply with the food safety legislation. “Food business” is defined very widely, covering not only large-scale food manufacturers, processors, retailers and caterers, but also farm shops and guest houses.

The European General Food Law Regulation 178/2002/EC (EU Regulation) and the Food Safety Act 1990 (1990 Act) provide the framework for food safety legislation in Britain.

The 1990 Act and EU Regulation together make it a criminal offence to place unsafe food on the market. Unsafe food means food which is either:

- Injurious to health.
- Unfit for human consumption.

“Placing on the market” can include, not just the sale of food, but also simply holding food for the purpose of selling it, or giving it away for free.

Criminal liability can be avoided if the food business can show:

- The unsafe food was the fault of another party.
- It took all reasonable precautions and exercised all due diligence to avoid the commission of an offence.

Evidence of food safety management systems such as Hazard Analysis Critical Control Point Principles (HACCP) and product traceability systems can assist in establishing that reasonable precautions were taken.

The Food Standards Agency (FSA) is responsible for food safety and food hygiene across the UK. It works with local authorities which are responsible for enforcing food safety regulations.

The FSA consults with industry and trade associations when developing and measuring the impact of policies, before the policies go out to full public consultation.

The Department for Food, Agriculture and Rural Affairs (Defra) is the UK delegate for Codex. Defra had the following comments,"In the UK, all Codex standards have been implemented. In the great majority of cases, they are implemented via EU Directives, Regulations and other EU instruments. EU Regulations have direct effect into UK law, whereas the Directives will be transposed into UK law via domestic legislation".

**Liability**

38. Set out the legal requirements to establish the liability of producers and suppliers for defective or contaminated food ingredients that cause damage, in relation to:

- Tort.
- Product liability.

**Tort**

A person has a cause of action in negligence where a person has breached a duty to take reasonable care towards another and the breach has resulted in damage to the claimant. The burden is generally on the claimant to prove these elements on the balance of probabilities (that is, more likely than not). Negligence claims would usually be brought against the manufacturer, but could also be brought against a supplier/retailer or anyone else who has breached a duty of care to the buyer.

**Product liability**

Food businesses can face civil claims under the Consumer Protection Act 1987 (CPA). Under the CPA, a person who has suffered injury as a result of a defective product, including food and drink products, has a right to issue a claim for damages.

In order to succeed in a claim it must be shown that, on the balance of probabilities, a defect in the product caused damage. There is no need to prove negligence. A defective product is defined as one where the safety of the product is not such as persons generally are entitled to expect. Damage is deemed to be death, personal injury or damage to private property valued above GBE275.

Producers and importers into the EU can be liable under the act for the defective produce they produce or import.

Suppliers, such as wholesalers or retailers, will generally not be liable, unless they put their own name on the product and give the impression that they are the producers, or if they fail to identify the producer.

39. Which defences are available to the producer and/or supplier to avoid liability? For instance, is market-entry prior government approval a legal defence against product liability and under which conditions?

Liability can be avoided under the CPA by establishing any one of six statutory defences:

- The business/individual did not supply the product (for example, the product was stolen or is a fake copy of one of your products).
- The state of scientific and technical knowledge at the time the product was supplied did not allow discovery of the defect.
- The defect was not in the product when it was supplied by the business/individual.
- The defect was an inevitable consequence of complying with the law. Market-entry prior government approval might be regarded as part of this defence. There is no precedent on this point.
- The supplier is not in business.
- The defect was due to the design of the finished product or to defective specifications provided by the manufacturer of the finished product.
40. Which types of damage are generally compensated by civil courts in food safety liability cases? For instance, loss of value, reparation costs, loss of revenue, and personal injury. Are punitive damages available?

Under the CPA, a person can claim compensation for:

- Death
- Personal injury
- Damage to private property (provided the amount of loss or damage is GB£275 or more).

Compensation may be reduced under the CPA if it can be shown that the claimant contributed to the damage.

In a claim for negligence the court will aim to put the victim in the position he would have been in had the negligence not occurred.

Damages can be claimed for all reasonably foreseeable losses flowing from the breach. Generally, in product liability negligence claims, no claim can be made for negligence causing pure economic loss, that is, financial loss that does not rise from physical injury or damage to property.

41. Summarise landmark or recent cases that have defined the law and practice in this sector.

On 31 July 2013, the Supreme Court handed down judgment in a landmark case concerning the sale of food after its “use by” date. The judgment confirms that if any person sells food after its “use by” date, they will have committed an offence under regulation 44(1) (d) of the Food Labelling Regulations 1996, regardless of whether the food in question is actually in a perishable state (Torfaen County Borough Council v Douglas Willis Ltd [2013] UKSC 59).
ONLINE RESOURCES

Eur-Lex
W http://eur-lex.europa.eu/
Description. The website provides free access, in the 24 official EU languages, to the Official Journal of the European Union; EU legislation; preparatory acts; EU case-law; international agreements; and other public documents. EUR-Lex is maintained by the Publications Office of the European Union, and is updated daily.

Legislation.gov.uk
W www.législation.gov.uk/
Description. This website is managed by the National Archives on behalf of the UK Government. It carries most types of UK legislation and their accompanying explanatory documents. Most types of primary legislation are held in "revised" form (that is, amendments made by subsequent legislation are incorporated into the text). Not all items of primary legislation held in revised form are up-to-date to the present.

British and Irish Legal Information Institute (BAILII)
W www.bailii.org/
Description. BAILII provides free access to British and Irish case law and legislation, EU case law, Law Commission reports, and other law-related British and Irish material. BAILII is a charitable trust, which is supported by a number of major corporate sponsors, organisations, inns of court, law firms and individuals. BAILII is hosted in the UK and Ireland by the Institute of Advanced Legal Studies, London and the Law Faculty, University College Cork. Legislation is carried in the form it was passed in, and so is not shown as amended by subsequent legislation. Case law may not be up-to-date.

Department for Environment Food and Rural Affairs
Description. The official Website for Defra, the UK government department responsible for policy and regulations on environmental, food and rural issues. The website contains guidance on UK and EU law and practice, and information on UK policy.

The Food and Environment Research Agency (Fera)
W http://fera.co.uk/
Description. Fera is an executive agency of Defra. Its role is to support and develop a sustainable food chain and a healthy natural environment and protect the global community from biological and chemical risks. Its website contains guidance and research.

Animal and Plant Health Agency (AHPA)
W www.gov.uk/government/organisations/animal-and-plant-health-agency
Description. The AHPA is an executive agency of Defra. Its role is to safeguard animal and plant health for the benefit of people, the environment and the economy. It contains the Plant Health Inspectorate, Plant Varieties and Seeds, the National Bee Unit and the GM Inspectorate. Its website contains access to its services, information and guidance.

Food Standards Agency (FSA)
W www.food.gov.uk/
Description. The Food Standards Agency is an independent government department responsible for food safety and hygiene across the UK. The FSA website gives access to a wide range of the FSA’s publications on food safety and hygiene.

National Institute of Agriculture and Botany (NIAB)
W www.niab.com/
Description: NIAB is a plant science and seed testing organisation. Its activities focus on science-led plant variety and seeds characterisation, evaluation, quality control and knowledge transfer. Its website contains information on a number of subjects, including botanical descriptions of crop varieties.

Agriculture and Horticulture Development Board (AHDB)
W www.ahdb.org.uk/
Description. Official website of the AHDB, which is a statutory levy board, funded by farmers, growers and others in the supply chain. Its purpose is to make agriculture and horticulture industries more competitive and sustainable through factual, evidence-based advice, information and activity.

Food and Agriculture Organisation of the United Nations (FAO)
W www.fao.org/about/en/
Description. The FAO's website provides access to its publications on food, agriculture and natural resources.
European Commission's Agricultural and Rural Development
W http://ec.europa.eu/agriculture/
Description. Official website for the European Commission's Directorate-General for Agriculture and Rural Development.

Common Agricultural Policy (CAP) Reform Collection
W www.gov.uk/government/collections/common-agricultural-policy-reform
Description. Maintained by Defra, this collection of guidance documents brings together information on how the reform of the EU's Common Agricultural Policy (CAP) will affect farmers. This includes information about the new schemes for farmers from 2015.
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<td>Neutral</td>
<td>Neutral</td>
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<td>Allowed</td>
<td>Yes</td>
<td>No</td>
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<td>Allowed (no maximum term)</td>
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<td>No</td>
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<td>No</td>
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<td>Restricted</td>
<td>Prohibited</td>
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<td>Yes</td>
<td>No</td>
<td>No</td>
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<td>Yes</td>
<td>No</td>
<td>No</td>
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<td>Production of crop seed?</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
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<td>Yes</td>
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<td>No</td>
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<td>Available</td>
<td>Available</td>
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<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<td>Yes</td>
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<td>Generally permitted</td>
<td>Restricted</td>
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<td>Import of GM seeds?</td>
<td>Yes</td>
<td>Some restrictions</td>
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<td>Import of GM crops?</td>
<td>Yes</td>
<td>Some restrictions</td>
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<td>Testing of GM seeds?</td>
<td>Yes</td>
<td>Some restrictions</td>
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<td>Local production of GM crops?</td>
<td>Yes</td>
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<td>Not prohibited</td>
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<td>Import of animal genetic material?</td>
<td>Yes</td>
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<td>Not prohibited</td>
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<td>Yes</td>
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<td>No precedent</td>
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<td>Product liability</td>
<td>Tort</td>
<td>No precedent</td>
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<td>Distributor?</td>
<td>Only if they put the name on the product/give impression they are the producer</td>
<td>Tort</td>
<td>No precedent</td>
</tr>
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**Languages.** English

**Professional qualifications.** Admitted as a Solicitor, 1998

**Areas of practice.** Dispute resolution; food, farming and land.

**Non-professional qualifications.** BA (Hons) Politics, University of Nottingham

**Languages.** English

**Professional associations/memberships**
- Property Litigation Association.

**Publications**
- *Burges Salmon Pink Book*, Contributor.

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**Professional associations/memberships**
- The British Institute of Agricultural Consultants.
- The Food Law Group.
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**Publications.** *Burges Salmon Pink Book*, Contributor.

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- Fellow of the Royal Agricultural Society.
- Law Society Food Law Group.
- British Institute of Agricultural Consultants.
- Royal Association of British Dairy Farmers.
- National Farmers Union Professional.
- National Institute of Agriculture and Botany.

**Publications**
- Contributing author to *Halsbury’s Laws of England on Agriculture*

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