

Succession Planning

Traditionally, family farms in Northern Ireland have been passed to the next generation on death. More recently, social and economic changes have meant that many farm businesses are now transferred to the next generation during the owner's lifetime.

Make a Will

Passing on ownership of a farm business can be stressful, whatever the circumstances. However, it can be particularly difficult when the transfer is unplanned through illness or the sudden death of the owner.

It is therefore important that you, as the current owner, have considered your options and have made legal arrangements to ensure that your wishes for the future ownership of your farm business are carried out. If, having consulted

your solicitor and accountant, you decide to

retain ownership of some or all of the farm business until your death, it is important that you make and regularly update your Will.

The risks involved in not making a Will

If you do not make a Will, your spouse will not automatically inherit all of your property after your death; instead, it will be divided according to the rules of intestacy, between your next of kin. These rules are rigid and may mean that the farm business will be divided between a number of relatives. This can often cause disputes within families and the break-up of the farm business.

In addition, the absence of a Will can result in a delay in the payment of money due to the farm business (including DAERA payments), pending

a legal decision as to who is entitled to receive such payments.

The benefits of making a Will

It is important that you make and regularly update

a Will, to provide certainty and clarity regarding the division of your estate, and to avoid the potential for disputes and delays. If you choose to make a Will, it must be carefully drafted and professional advice should be considered.

It is important that you choose a solicitor who understands the specific issues involved in the transfer of a farm business, and executors (those appointed to carry out your wishes) who have a good knowledge of your particular business, one of whom should be younger than you.

Farm business assets

It is vital that all the assets of the farm are dealt with in such a manner so as to ensure that they pass to the person you intend. When you are making a Will, it is very important that you ensure that your solicitor has knowledge of all of the assets involved in your farm business.

This may include, not only the land but also the livestock, plant and machinery, entitlement to Basic Payment Scheme payments and other grant payments.

You should also discuss who will be responsible for the payment of any outstanding farm debts, and who will be entitled to monies which are owed to the farm business on your death.

Importance of planning

It is important that your Will is regularly updated, to take account of changes in the farm business, assets owned, family circumstances and changes in the law.

Illness and incapacity are often unplanned and can cause a great deal of stress for other members if the decision maker on farm is no longer able to fulfil this role. You can minimise disruption by ensuring, where possible, that more than one person is named on the herd book, flock number, Farm Business ID and bank account signatory.

Succession Planning Continued

Power of Attorney

A Power of Attorney is a legal document giving someone else the authority to take actions or make decisions on your behalf. It enables you to choose a person/ or people (called an attorney) to deal with your farm business affairs. A Power of Attorney ceases when you become mentally incapable of managing your affairs, but an Enduring Power of Attorney will continue.

Appointing a Power of Attorney could ensure your wishes are carried out and farm business continues to operate should you become incapacitated through accident or illness.

You should seek legal advice as careful consideration should be given to the range of powers you wish to give your attorney.

Inheritance Tax

Depending on the scale of your farm business Inheritance Tax could be an important consideration in relation to your succession planning however it should not be a barrier to putting a succession plan in place.

A solicitor and/ or accountant, with relevant experience, can assist you in carefully considering these issues and the appropriate tax reliefs with regard to planning your succession.

Talking about Succession Planning

For many farmers the issue of succession planning causes a great deal of stress, worry and fear. Many farmers do not want to think about retirement and worry about how it will affect their physical, emotional and financial well-being.

There are many reasons why farm families avoid the subject of succession however it is important to weigh up the consequences to the family and farm business of doing nothing versus having difficult conversations and taking steps to address the issue now.

It is important to take the time to think about where your farm business is now, where it is headed and what you want in terms of a work-life balance now and in the future.

Other options

If you have no obvious or identified successor Land Mobility, Partnerships & Share/Contract Farming options could be considered. Arrangements such as these could lead to a reduced work load, improved work-life balance, reduced stress through shared decision making and improved profits and viability.

Help with Succession Planning

- A professional accountant/ solicitor/ financial advisor with knowledge of the farming sector
- A professional succession planning facilitator
- An agricultural consultant
- Agricultural Law Association

<https://ala.org.uk/>

UFU/ YFCU Land Mobility Scheme

<https://yfcu.org/land-mobility-scheme>

If you are experiencing stress in relation to making decisions about the future Rural Support could help through it's On Farm Business Support service.

Freephone Helpline:

0800 138 1678 (Mon- Fri 9am to 9pm)

www.ruralsupport.org.uk

