Opening Statement by IFA President Joe Healy on Pre-Legislative Scrutiny of the Nursing Homes Support Scheme (Amendment) Bill 2019

Joint Oireachtas Committee on Health

Wednesday, 13th November 2019, 9am

Chairman and Committee Members,

I am joined here by the Chair of IFA's Farm Family & Social Affairs Committee Caroline Farrell, IFA's Farm Business Chair Martin Stapleton, and IFA Farm Family & Social Affairs Executive. Geraldine O'Sullivan.

At outset, I would like to acknowledge the work of Minister Jim Daly and his officials who have at all stages recognised the contribution of family farms to maintaining economic activity and employment in the sector. They have worked constructively with IFA to remove the uncertainty in the Nursing Home Support Scheme, so farm families can plan appropriately for the cost of care.

IFA supports the Nursing Home Support Scheme and recognises the important role of the scheme in providing financial support and security for people going into long-term nursing home care, as well as their families.

The scheme operates under the *principle of the ability to pay*, which means that a person's co-payment is calculated based on 80% of their assessable income and up to 7.5% of the value of their assets.

Under the scheme the principal private residence is capped at three-years and after this period it is disregarded from the financial assessment.

A key concern for IFA since the introduction of the scheme, has been the potentially uncapped liability on the farm business asset. Farm business assets are productive assets and are required to generate income, they are not a measure of additional ability to pay.

Huge uncertainty and anxiety has been created for family farms, with fear that the viability of the farm will be undermined or lost while attempting to meet the costs of care. This led to the introduction of a three-year cap on farm business assets in circumstances of sudden illness.

It is also important to note that assets transferred for less than five years are included in the assessment of means.

As you can imagine, this has proven to be a barrier to the next generation taking over the family farm due to the debt owing on the farm business asset.

Overview of the Agricultural sector

At this stage, before I go into detail on the draft Heads of Bill and the proposed changes to the Nursing Home Support Scheme, I think it would be useful to give a brief overview of the agricultural sector in Ireland.

The agricultural sector is the back bone of the Irish economy and is Ireland's largest indigenous industry with a turnover of some €26bn annually.

At the very heart of the agricultural sector is the family farm.

There are 137,500[1] farms in Ireland, of which 99.7% are classified as family farms.

The 2018 Teagasc National Farm Survey showed that 30% of farmers are aged 65 years old and over, while only 7% are under the age of 35 years old.

This survey also showed that average farm incomes declined by 21% in 2018, dropping from approx. €30,000 in 2017 to €23,500 in 2018.

This steady erosion of farm incomes threatens both the viability and sustainability of the family farm and the sector's growth prospects. This can be clearly seen in the survey findings with only 34% or 47,000 of farms classified as viable.

A farm is economically viable if it can
(a) remunerate family labour at the average agricultural wage, and
(b) provide a 5% return on non-land assets.

32% of farms are classified as sustainable because of off-farm income and 34% as vulnerable.

It is critical to understand that farm assets are productive assets, which are required to generate income. They are not a measure of an additional ability to pay.

If the farm asset is reduced, then the income earning potential decreases and the viability of the farm can be put in question.

The agri-food sector, which employs over 7% of the working population, is vitally important to the Irish economy, but particularly to the rural economy where these jobs are predominantly located.

[1] 2016 CSO survey

Farming provides the raw material that underpins the success of the agri-food sector in Ireland, it is vital that the future viability of family farms is protected.

Government policy to incentivise long-term leases in farming

The importance of the agri-food sector is clearly recognised and has been prioritised as a major economic driver in the Programme for Government.

It is acknowledged that there are significant challenges facing the sector and that there are a number of important structural deficits, which are impacting its competitiveness.

In particular, issues such as farm size, fragmentation, low land mobility and an ageing demographic profile are seen to negatively impact the efficiency of primary production.

In the 2014 Agri-Taxation Review[2], there was consensus that these structural deficiencies needed to be addressed and the report proposed a 50% increase in the income tax relief for leased land.

Long-term land leasing has operated in Ireland since the mid-1990s. As a farm business structure, land leasing is growing in importance, particularly since the increase in the income tax relief on long-term leases introduced in Budget 2015.

The income tax relief rates and the tiered structure have encouraged farmers to enter into long-term leases.

[2] Agri-Taxation Review 2014 – Department of Finance and Department of Agriculture, Food and the Marine

Since introduction, the changes in the income tax relief rates, have resulted in a near doubling of the number of long-term leases and are a key policy driver that encouraged and incentivised farmers to enter into long-term leases with third parties.

The latest available Revenue figures show that the number of long-term land leases has more than doubled since 2013, from 4,370 to 9,790 in 2017.

It is important to stress that the income tax relief on leased land is not eligible to close family relatives, and therefore, Government policy has actively encouraged farm families to enter into long-term leases with third parties.

Inconsistency in policy in the proposed changes to Fair Deal scheme

In the draft Heads of Bill to amend the Nursing Home Support Scheme, it is proposed to extend the three-year cap to farm business assets, where:

- The farmer, partner or spouse, or a family successor has worked a substantial part of the working day on the farm for three out of the previous five years, prior to the person receiving care; and

- A family successor is appointed and commits to continue on a consistent and regular basis to apply a substantial part of his or her working day to farming for a period of not less than 6 years.

Under the proposed changes, family farms that are leased to third parties are excluded from the three-year cap, as they are classified as an investment asset rather than a productive asset.

The proposed changes and the classification of leased farm assets under the draft Heads of Bill are inconsistent with other Government policies, that actively incentivised and encouraged farmers to enter into long-term leases with third parties.

Crucial to the success of the income tax relief and the incentivising of long-term leases is the confidence that farmers have, that by leasing their farms, they will not be negatively impacted in the future transfer of their asset.

If the proposed changes were introduced it could threaten the future viability of these farm businesses and undermine the progress that has been made to address deficiencies in the sector.

IFA's proposal for qualifying for the three-year cap under Fair Deal scheme

IFA is proposing that the precedent set out under the Agricultural Relief[3], which is a relief available on farm land that is transferred either in one's lifetime or on death, is applied under the Fair Deal scheme to qualify for the three-year cap.

To create cohesive Government policy that continues to protect the competitiveness of the agricultural sector, IFA is proposing that the qualifying criteria under the Fair Deal scheme would be similar to Agricultural Relief, which states that:

Farm land must be farmed on a commercial basis for at least six years or that the property is leased to someone who farms the agricultural property on a commercial basis for at least six years from the date of transfer.

The rationale behind the relief is to encourage the productive use of agricultural land and to prevent the sale or break-up of family farms.

[3] https://www.revenue.ie/en/gains-gifts-and-inheritance/cat-reliefs/agricultural-relief/what-are-the-conditions-for-agricultural-relief.aspx

Introducing a similar qualifying condition under the Fair Deal scheme for leased farm land would strengthen existing Government policy to address structural deficiencies in the sector and improve competitiveness.

Protecting the sector's competitiveness has never been so important, when the uncertainty of Brexit and the increasing production costs are considered.

IFA proposes that the eligibility criteria for the three-year cap, are as follows:

- The farm is being farmed on a commercial basis for three out of the five years prior to the person receiving care, by either the farmer, partner or spouse, family successor family or leasee; and

- The farm is farmed on a commercial basis for at least six years from that date the person receives care by either the farmer, partner or spouse, family successor family or leasee.

Amending the draft Heads of Bill to include the leasees is vital, if the future viability of the family farm is to be protected.

Five-year "clawback" on transferred farm assets

Another condition that has not been addressed in the draft Heads of Bill is clawback on farm assets that have been transferred for less than five-years.

I think it is important to state that IFA is fully supportive of and encourages lifetime transfers of farms.

IFA is fundamentally opposed to a financial burden being placed on a transferred asset and is unclear how a third-party could find themselves responsible for the previous owner's cost of care.

There is no doubt that this has proven to be a barrier to the next generation taking over the family farm, as the viability of the farm business may be undermined by the impact of an unknown cost of care on the future value of the assets.

Furthermore, farmers are facing a challenging credit environment and would be unable to get credit to make the necessary investment in the farm business to increase efficiencies and production.

The clawback mechanism is grossly unjust and must be reviewed. In other support schemes for elderly people, such as the Non-Contributory Pension, when ownership of the farm asset is transferred, it is no longer included in the means assessment.

If a transfer has taken place, the person is asked to supply a copy of the Deed of Transfer stamped by the Revenue Commissioners, or if the deed has been lodged, a letter from the solicitors confirming that the Deed of Transfer has been lodged with the Revenue Commissioners is supplied.

Delays in the review of the Fair Deal scheme

The Review[4] of the Nursing Home Support Scheme, A Fair Deal which was published in July 2015, three years after IFA's submission to the consultation process, recognised IFA's position that income generating assets should be treated differently.

In July 2018, the Government approved proposals to change how farm assets are treated under the Fair Deal scheme.

[4] https://www.gov.ie/en/publication/6f512a-review-of-the-nursing-homes-support-scheme-a-fair-deal/?referrer=/wp-content/uploads/2015/07/review-of-nursing-homes-support-scheme.pdf/

At this time the Minister stated that the draft Heads of Bill would be progressed in the Oireachtas in the autumn session. However, it took a further year before the draft Heads of Bill were published in June 2019.

The significant delays in the legislative process have had a negative impact on the viability of family farms.

The Government has already given a commitment that the changes will be applied retrospectively. This means that once the Act is amended, it will apply to existing nursing home residents as well as new entrants.

IFA is proposing that this retrospection is applied from July 2018, when the Government approved the proposal, and that the existing nursing home residents that satisfy the three-year cap as of July 2018, would be paid back their contribution from the farm business asset.

Farm families should not be financially penalised as a result of the delays progressing the drafting the legislation.

Conclusion

In conclusion, IFA welcomes this opportunity to share our concerns with the Committee and present constructive and realistic recommendations, that if enacted, would enable farm families to plan appropriately for the cost of nursing home care and positively impact the future viability of Ireland's family farm model.

We very much welcome any questions you may have and thank you for your time and consideration.