

# NFU Legal Assistance Scheme

## Rules of the NFU Legal Assistance Scheme

Approved by NFU Council on 20 January 2014

### Background

1. The NFU established the Legal Assistance Scheme ("LAS") as a discretionary benefits scheme in 1987 to provide financial and professional support to its subscribers (the LAS being open to Farmer & Grower Members or Farmer & Grower Member Organisations) ("LAS subscribers") facing legal disputes relating to their farming businesses.
2. The Legal Board is part of the NFU, being a body established by the NFU to carry out the functions and further the objects of the NFU. Pursuant to its constitution (the "Constitution"), the NFU has delegated to the Legal Board responsibility for the management and strategy of the LAS and its funds.
3. These rules ("Rules") set out the governance arrangements which have been agreed between the NFU and the Legal Board in order to protect the interests of LAS subscribers and all other interested parties and to ensure that the NFU has oversight of the activities of the Legal Board and the operation of the LAS through the Governance Board.
4. These Rules may be amended by Council in accordance with the Constitution.
5. The Legal Board may from time to time adopt additional protocols for the operation of the LAS to supplement these Rules ("Operating Protocols"), which shall be subject to approval by the Governance Board.
6. These Rules constitute the terms of reference of the Legal Board as prescribed by the Constitution.
7. Terms used in these Rules (unless otherwise defined) have the meaning given to them in the Constitution.

### The Legal Board

8. The Legal Board is responsible for ensuring overall budgetary control of the LAS, subject to the remaining provisions of these Rules.
9. The Legal Board will meet at least quarterly, such meetings to be held at the head offices of the NFU.
10. The Legal Board is responsible for making awards under the LAS in group actions, cases of national importance, cases of oppression and in cases where the award needed is in excess of £5,000, having regard to the level of professional fees incurred by the applicants. The determination of awards in other cases shall be made in accordance with the Operating Protocols.
11. The Legal Board may make awards towards actions undertaken by members of the NFU other than LAS subscribers if they consider it to be in the general interest of LAS subscribers.
12. The Legal Board may make such arrangements as it thinks fit with an independent firm of solicitors to seek advice for itself and for LAS subscribers and any additional expenditure thereby incurred by the NFU on behalf of the LAS shall be paid out of LAS funds.

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### Appointments to the Legal Board

13. The Legal Board shall be made up of eight LAS subscribers, each nominated by one of the seven Regional Boards and NFU Cymru every two years, subject in each case to ratification of such nomination by the Governance Board. In the event that an appointment is not ratified by Governance Board, the relevant Regional Board or NFU Cymru (as the case may be) shall be informed of the reasons and asked for an alternative appointment, which shall be subject to ratification in accordance with this Rule.
14. In ratifying nominations to the Legal Board, the Governance Board shall have regard to the mix of skills, experience and knowledge which the Legal Board requires in order to perform effectively and to the need to ensure the progressive refreshing of the Legal Board.
15. The chairman and vice-chairman of the Legal Board shall be elected by the members of the Legal Board at the first meeting following the NFU AGM in the relevant election year for the appointment of the Legal Board members. No chairman shall hold office for more than six years.
16. Honoraria shall be paid to each Legal Board member, as determined by the Audit and Remuneration Committee. Other expenses necessarily incurred during the course of carrying out LAS duties will be reimbursed in accordance with the NFU members' expenses policy.

### Subscriptions

17. LAS subscribers shall pay an annual subscription and such subscription monies and other LAS funds may only be used in connection with the LAS as set out in these Rules. LAS funds shall be clearly identified in the NFU accounts and shall not be merged with other NFU funds.
18. The financial and subscription year of the LAS ("Scheme Year") shall be the same as that of the NFU.
19. The annual LAS subscription rate will be agreed between the Legal Board and the Governance Board for approval by Council in the June immediately prior to the commencement of the relevant Scheme Year.

### Old Scheme Funds

20. Old Scheme Funds (as defined below) arise from unused County Legal Schemes (as defined below) prior to 1 November 1987.
  - 20.1. Following the introduction of the LAS in 1987, NFU members who had been subscribers to County Legal Aid Schemes became subscribers to the LAS. Although the County Legal Aid Scheme funds were under the general control of the County Executive Committee, the members of the County Legal Committee acted as constructive trustees of the pre-1987 funds. In 1998 NFU Council made changes to the NFU Constitution and the NFU County Branch was removed as a legal entity on 31st October 1999. As far as the pre-1987 funds were concerned, three options became available, wind up the Scheme, transfer to a private trust or transfer to the National Scheme. In the event most committees transferred into the National Scheme and ensured that the ability to spend in circumstances identified locally but not covered under the National Scheme i.e. the LAS was preserved. Those funds that were transferred to the LAS from County Legal Aid Schemes are known as Old Scheme Funds.
  - 20.2. Interest on Old Scheme Funds shall be calculated as a proportion of the annual income from LAS fund investments in proportion to the Old Scheme Fund capital after deduction of tax and added to the individual Old Scheme Funds for use in accordance with these Rules.

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- 20.3. With the approval of Council, the Legal Board may still agree to facilitate the transfer to LAS management of any pre-1987 funds as described above.
- 20.4. With the approval of Council, the Legal Board may agree such arrangements affecting any former Local Legal Committee in order to facilitate the transfer to LAS management of subscription monies paid to an NFU Legal Aid Scheme operated by the County Branch ("County Legal Schemes") before 1 November 1987 ("Old Scheme Funds"). Interest on remaining Old Scheme Funds transferred to the Scheme shall be allocated each year to that County for utilisation in accordance with Rule 20.5 below.
- 20.5. Where these funds are held by the Legal Board on behalf of the former Local Legal Committee then:
- (a) an LAS Adviser shall notify the relevant member of the Legal Board of any relevant cases which could benefit from those funds. The relevant member of the Legal Board together with the relevant NFU County Chairman and Council Representative may allocate those funds to those cases whether eligible under the LAS or outside the LAS to current LAS subscribers within that County at their absolute discretion with no limits save the limit of funds available;
  - (b) the relevant Legal Board member together with the relevant County Chairman and Council Representative may allocate Old Scheme Funds towards costs of cases, causes or enquiries of general benefit to the local farming community subject to their majority support. For individual awards over £5,000, the current local Branch Chairman and the Honorary Treasurer must also be consulted for their votes before the final decision is made. The Regional Board should also be advised of the decision in case it could make a relevant observation. The LAS Advisers and the Regional Director may assist with the decision-making as and when necessary.
  - (c) Old Scheme Funds may be classed as part of the reserves of the Scheme where former Local Legal Committees have agreed. Subject to the consent of the relevant Legal Board member together with the relevant County Chairman, Council Representative, local Branch Chairman and the Honorary Treasurer (where applicable), those funds shall only be available to the Scheme if all current Scheme funds are exhausted;
  - (d) Old Scheme Funds may be donated to the current Scheme at the discretion of the relevant Legal Board member, the relevant County Chairman and Council Representative after consultation with the local Branch Chairman and the Honorary Treasurer.

### Oversight

21. To enable appropriate oversight:

- 21.1. The Legal Board, acting through its chairman, will formally report to the Governance Board at least semi-annually with a balanced and understandable assessment of the LAS's performance and operation and a report on actual performance against the relevant annual budget made in accordance with the Operating Protocols; and
- 21.2. The Legal Board, through its chairman, will formally report to Council annually. This, together with such additional written information in respect of the LAS as the Governance Board may from time to time require, will enable the County Chairmen to report to subscribers at their county AGMs.

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22. The NFU will act in the manner prescribed by its Constitution in order to give effect to these Rules.
23. If any of these Rules conflicts with the Constitution, then the terms of the Constitution will prevail.
24. Any difference or dispute between the Governance Board and the Legal Board concerning the application of these Rules shall be referred to the chairman of the Legal Board on behalf of the Legal Board and the NFU's Director-General on behalf of the Governance Board for resolution, after which any remaining issue will be reviewed at a meeting of Council at which the chairman of the Legal Board will be present, and Council will decide how the issue is to be resolved.

#### **Dissolution**

25. If Council decide that it is necessary or advisable to dissolve the LAS, any assets remaining (except Old Scheme Funds as defined above) after the satisfaction of any debts and liabilities shall be given or transferred to the NFU General Fund or disposed of under Paragraph 21.2 of the NFU Constitution.