

Contractual relationships in the UK fresh produce industry (22 February 2024)

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From:

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GB Potatoes

British Tomato Growers Association

The value of UK horticultural production was approximately £4.3bn¹ in 2022 (across edibles and ornamentals) and while it accounts for just 2% of the farmed land² in the UK it delivers nearly 20% of the total value from farming³. The value of edible fresh produce is: £2.8bn¹. Home-produced vegetables were £1.8 billion in 2022, and the volume of home production decreased by 5.8% to 2.4 million tonnes. Home produced fruit has risen in value to just over £1 billion, an increase of 9.5% compared to 2021, with production volumes increasing 13% to 652 thousand tonnes. The sector is a significant and critical component of the wider food industry (worth over £120bn to the UK economy)⁴.¹

As trade and crop organisations representing various sectors within the fresh produce supply chain, we recognise the diverse nature of supply chains for fresh produce crops. Each crop has its own unique characteristics, production methods, and distribution channels, which necessitate tailored approaches (frameworks) to address contractual fairness issues effectively. However, amidst these differences (and different crops will by necessity require a tailored framework which individual crop associations can assist in designing), there are common points that cut across all fresh produce supply chains – in particular, producers must be able to make a consistent profit to reinvest in their businesses. Therefore, we are writing with the following recommendations:

1. **Government should impose Section 29 of the Agriculture Act⁵:** to introduce into law fair dealing obligations of business purchasers of agricultural products. The following are examples of the matters that may be specified under subsection (6)(b) and (c)—
 - (a) the quantity and quality of products to be purchased;
 - (b) how products are to be provided (including timing of deliveries);
 - (c) pricing mechanisms (including mechanisms for adjustments, premiums and deductions);
 - (d) payment (including timing and method of payments);
 - (e) charges for processing, marketing or advertising products;
 - (f) exclusivity of contractual dealing;
 - (g) the provision of information between the parties;
 - (h) variation of a contract (including notice periods for variation and retrospective variations);
 - (i) duration and termination of a contract.

Each element needs to be considered in the detail. Some will be more relevant to certain product categories than others. But the overall recommendation would be to include the option for one or more of the requirements to be incorporated into a contract.

¹ [Defra Horticulture Statistics 2022](#)

² [Agriculture in the United Kingdom 2022 \(publishing.service.gov.uk\)](#)

³ [PowerPoint Presentation \(publishing.service.gov.uk\)](#)

⁴ [Government food strategy - GOV.UK \(www.gov.uk\)](#)

⁵ [Agriculture Act, Section 29 Fair Dealing Clause](#)

2. **Prohibiting the resale of any product in its unaltered state at a price lower than its actual purchase price:** Prohibiting the resale of any product in its unaltered state at a price lower than its actual purchase price unless mutually agreed by the buyer and seller: Prohibiting the resale of food for less than the purchase price serves to safeguard the interests of producers, retailers, and consumers alike by fostering a fair and sustainable food economy. Nonetheless, mutually agreed promotional activities are crucial for stimulating demand and increasing sales volume and should be allowed.
3. **Reduce the audit burden on producers:** Producers face multiple “licence to sell” audits, additional retailer specific audits, worker welfare and Scope 3 audits and data requests. These should be streamlined into one “British retailer audit programme” that is common for all.
4. **Mandatory timelines for contract agreements:** The timing of contract negotiations poses considerable challenges for producers. Currently, contracts are frequently finalised late in the year, often after producers have already committed to land rentals, seed purchases, crop planting and even after harvest. This late timing introduces uncertainty and financial risks for producers who must make crucial decisions well ahead of having agreed a contract. To tackle this issue and enhance fairness and stability in the supply chain, it is imperative to establish mandatory timelines for contract agreements that align with the specific deadlines associated with each type of fresh produce.
5. **Growers charter / Buyers code of conduct:** Developing a growers charter / buyers code of conduct for each fresh produce sector, tailored to the specific needs and characteristics of different crops, could establish guidelines for contract lengths and other terms that ensure fairness and transparency in grower-intermediary-retailer relationships. This charter could include input cost benchmarks and indices, provisions for timely negotiations and reasonable notice periods for any changes in pricing, margins or terms.
6. **Contract tendering:** The practice of retailers asking producers to tender for a contract after crops have been established or the growing season has commenced, should be prohibited. This practice leads to market instability as supply arrangements can change unexpectedly. Additionally, it unfairly burdens producers with all the risk, disrupting the balance of responsibilities within the agricultural market. Tenders for supply contracts should be done ahead of the financial commitment for the growing season (and ideally be multi-year, especially in the case of perennial crops).
7. **Flexible contract lengths:** Recognising that the length of a producer's commitment cycle varies depending on the crop and production practices, long- term contracts should offer appropriate flexibility to accommodate these differences. For example, contracts for perennial crops may need to be longer than for multi-annual and annual crops, reflecting the longer investment horizon required by growers.
8. **Balanced risk sharing:** Risks in the agri-food supply chain, such as climate change, weather-related disruptions, input prices, the cost of regulation or market fluctuations, should be shared equitably among all stakeholders. Contractual arrangements should include provisions for risk-sharing mechanisms that protect producers from bearing disproportionate risks and loss of profit, while also ensuring that retailers are not unduly burdened by unforeseen challenges.

¹ [Defra Horticulture Statistics 2022](#)

² [Agriculture in the United Kingdom 2022 \(publishing.service.gov.uk\)](#)

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9. **Timely payments:** Ensuring prompt and timely payments is paramount for the financial well-being of producers. Delays in payment can result in significant challenges, including cash flow difficulties and financial instability. Therefore, contractual agreements should include clear provisions specifying payment terms, with a strong emphasis on enforcing payments within a reasonable timeframe throughout the entire supply chain.
10. **Dispute resolution mechanisms:** Effective dispute resolution mechanisms are essential for addressing conflicts and disagreements that may arise within the supply chain. Contracts should include provisions for alternative dispute resolution methods, such as mediation or arbitration, to resolve disputes in a timely and cost-effective manner, thereby minimising supply disruptions.
11. **Extend the Grocery Supply Code of Practice (GSCOP):** To prevent avoidance by retailers, GSCOP should be extended to intermediaries and the threshold should be reduced from £1 billion to all businesses purchasing over £500 million.
12. **Improve buyer knowledge, training and expertise:** in line with GCA advice, ensuring that buyers, wherever practical, are in role for a minimum of two full years.
13. **Accessing alternative markets.** Alternatives to dealing with the retail market would provide producers with the option to say no to excessive price pressure. In this respect support for opening up export markets could be a helpful way of providing growers with these alternative markets.

By addressing these common points, irrespective of the specific fresh product involved, we believe that the agri-food supply chain will become fairer and more equitable. We stand ready to collaborate with policymakers and all industry stakeholders to advance these principles and foster a more equitable and resilient agri-food sector.



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