



Agricultural Holdings Act 1986

1986 CHAPTER 5

PART I

INTRODUCTORY

1 Principal definitions.

- (1) In this Act “agricultural holding” means the aggregate of the land (whether agricultural land or not) comprised in a contract of tenancy which is a contract for an agricultural tenancy, not being a contract under which the land is let to the tenant during his continuance in any office, appointment or employment held under the landlord.
- (2) For the purposes of this section, a contract of tenancy relating to any land is a contract for an agricultural tenancy if, having regard to—
 - (a) the terms of the tenancy,
 - (b) the actual or contemplated use of the land at the time of the conclusion of the contract and subsequently, and
 - (c) any other relevant circumstances,the whole of the land comprised in the contract, subject to such exceptions only as do not substantially affect the character of the tenancy, is let for use as agricultural land.
- (3) A change in user of the land concerned subsequent to the conclusion of a contract of tenancy which involves any breach of the terms of the tenancy shall be disregarded for the purpose of determining whether a contract which was not originally a contract for an agricultural tenancy has subsequently become one unless it is effected with the landlord’s permission, consent or acquiescence.
- (4) In this Act “agricultural land” means—
 - (a) land used for agriculture which is so used for the purposes of a trade or business, and
 - (b) any other land which, by virtue of a designation under section 109(1) of the ^{MI}Agriculture Act 1947, is agricultural land within the meaning of that Act.

Status: Point in time view as at 01/10/1992.

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- (5) In this Act “contract of tenancy” means a letting of land, or agreement for letting land, for a term of years or from year to year; and for the purposes of this definition a letting of land, or an agreement for letting land, which, by virtue of subsection (6) of section 149 of the ^{M2}Law of Property Act 1925, takes effect as such a letting of land or agreement for letting land as is mentioned in that subsection shall be deemed to be a letting of land or, as the case may be, an agreement for letting land, for a term of years.

Marginal Citations

- M1 1947 c. 48.
M2 1925 c. 20.

2 Restriction on letting agricultural land for less than from year to year.

- (1) An agreement to which this section applies shall take effect, with the necessary modifications, as if it were an agreement for the letting of land for a tenancy from year to year unless the agreement was approved by the Minister before it was entered into.
- (2) Subject to subsection (3) below, this section applies to an agreement under which—
- any land is let to a person for use as agricultural land for an interest less than a tenancy from year to year, or
 - a person is granted a licence to occupy land for use as agricultural land, if the circumstances are such that if his interest were a tenancy from year to year he would in respect of that land be the tenant of an agricultural holding.
- (3) This section does not apply to an agreement for the letting of land, or the granting of a licence to occupy land—
- made (whether or not it expressly so provides) in contemplation of the use of the land only for grazing or mowing (or both) during some specified period of the year, or
 - by a person whose interest in the land is less than a tenancy from year to year and has not taken effect as such a tenancy by virtue of this section.
- (4) Any dispute arising as to the operation of this section in relation to any agreement shall be determined by arbitration under this Act.

3 Tenancies for two years or more to continue from year to year unless terminated by notice.

- (1) Subject to section 5 below, a tenancy of an agricultural holding for a term of two years or more shall, instead of terminating on the term date, continue (as from that date) as a tenancy from year to year, but otherwise on the terms of the original tenancy so far as applicable, unless—
- not less than one year nor more than two years before the term date a written notice has been given by either party to the other of his intention to terminate the tenancy, or
 - section 4 below applies.
- (2) A notice given under subsection (1) above shall be deemed, for the purposes of this Act, to be a notice to quit.

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- (3) This section does not apply to a tenancy which, by virtue of subsection (6) of section 149 of the ^{M3}Law of Property Act 1925, takes effect as such a term of years as is mentioned in that subsection.
- (4) In this section “term date”, in relation to a tenancy granted for a term of years, means the date fixed for the expiry of that term.

Marginal Citations

M3 1925 c. 20.

4 Death of tenant before term date.

- (1) This section applies where—
 - (a) a tenancy such as is mentioned in subsection (1) of section 3 above is granted on or after 12th September 1984 to any person or persons,
 - (b) the person, or the survivor of the persons, dies before the term date, and
 - (c) no notice effective to terminate the tenancy on the term date has been given under that subsection.
- (2) Where this section applies, the tenancy, instead of continuing as mentioned in section 3(1) above—
 - (a) shall, if the death is one year or more before the term date, terminate on that date, or
 - (b) shall, if the death is at any other time, continue (as from the term date) for a further period of twelve months, but otherwise on the terms of the tenancy so far as applicable, and shall accordingly terminate on the first anniversary of the term date.
- (3) For the purposes of the provisions of this Act with respect to compensation any tenancy terminating in accordance with this section shall be deemed to terminate by reason of a notice to quit given by the landlord of the holding.
- (4) In this section “term date” has the same meaning as in section 3 above.

5 Restriction on agreements excluding effect of section 3.

- (1) Except as provided in this section, section 3 above shall have effect notwithstanding any agreement to the contrary.
- (2) Where before the grant of a tenancy of an agricultural holding for a term of not less than two, and not more than five, years—
 - (a) the persons who will be the landlord and the tenant in relation to the tenancy agree that section 3 above shall not apply to the tenancy, and
 - (b) those persons make a joint application in writing to the Minister for his approval of that agreement, and
 - (c) the Minister notifies them of his approval,section 3 shall not apply to the tenancy if it satisfies the requirements of subsection (3) below.

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- (3) A tenancy satisfies the requirements of this subsection if the contract of tenancy is in writing and it, or a statement endorsed upon it, indicates (in whatever terms) that section 3 does not apply to the tenancy.

PART II

PROVISIONS AFFECTING TENANCY DURING ITS CONTINUANCE

Written tenancy agreements

6 Right to written tenancy agreement.

- (1) Where in respect of a tenancy of an agricultural holding—
- (a) there is not in force an agreement in writing embodying all the terms of the tenancy (including any model clauses incorporated in the contract of tenancy by virtue of section 7 below), or
 - (b) such an agreement in writing is in force but the terms of the tenancy do not make provision for one or more of the matters specified in Schedule 1 to this Act,
- the landlord or tenant of the holding may, if he has requested the other to enter into an agreement in writing embodying all the terms of the tenancy and containing provision for all of the said matters but no such agreement has been concluded, refer the terms of the tenancy to arbitration under this Act.
- (2) On any such reference the arbitrator in his award—
- (a) shall specify the existing terms of the tenancy, subject to any variations agreed between the landlord and the tenant,
 - (b) in so far as those terms as so varied neither make provision for, nor make provision inconsistent with, the matters specified in Schedule 1 to this Act, shall make provision for all of the said matters having such effect as may be agreed between the landlord and the tenant or, in default of agreement, as appears to the arbitrator to be reasonable and just between them, and
 - (c) may include any further provisions relating to the tenancy which may be agreed between the landlord and the tenant.
- (3) Where it appears to the arbitrator on a reference under this section that, by reason of any provision which he is required to include in his award, it is equitable that the rent of the holding should be varied, he may vary the rent accordingly.
- (4) The award of an arbitrator under this section shall have effect as if the terms and provisions specified and made in the award were contained in an agreement in writing entered into by the landlord and the tenant and having effect (by way of variation of the agreement previously in force in respect of the tenancy) as from the making of the award or, if the award so provides, from such later date as may be specified in it.
- (5) Where in respect of a tenancy of an agricultural holding—
- (a) the terms of the tenancy neither make provision for, nor make provision inconsistent with, the matter specified in paragraph 9 of Schedule 1 to this Act, and

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- (b) the landlord requests the tenant in writing to enter into such an agreement as is mentioned in subsection (1) above containing provision for all of the matters specified in that Schedule,
- the tenant may not without the landlord's consent in writing assign, sub-let or part with possession of the holding or any part of it during the period while the determination of the terms of the tenancy is pending; and any transaction entered into in contravention of this subsection shall be void.
- (6) The period mentioned in subsection (5) above is the period beginning with the date of service of the landlord's request on the tenant and ending with the date on which an agreement is concluded in accordance with that request or (as the case may be) with the date on which the award of an arbitrator on a reference under this section relating to the tenancy takes effect.

Fixed equipment

7 The model clauses.

- (1) The Minister may, after consultation with such bodies of persons as appear to him to represent the interests of landlords and tenants of agricultural holdings, make regulations prescribing terms as to the maintenance, repair and insurance of fixed equipment (in this Act referred to as "the model clauses").
- (2) Regulations under this section may make provision for any matter arising under them to be determined by arbitration under this Act.
- (3) The model clauses shall be deemed to be incorporated in every contract of tenancy of an agricultural holding except in so far as they would impose on one of the parties to an agreement in writing a liability which under the agreement is imposed on the other.

8 Arbitration where terms of written agreement are inconsistent with the model clauses.

- (1) This section applies where an agreement in writing relating to a tenancy of an agricultural holding effects substantial modifications in the operation of regulations under section 7 above.
- (2) Where this section applies, then, subject to subsection (6) below, the landlord or tenant of the holding may, if he has requested the other to vary the terms of the tenancy as to the maintenance, repair and insurance of fixed equipment so as to bring them into conformity with the model clauses but no agreement has been reached on the request, refer those terms of the tenancy to arbitration under this Act.
- (3) On any reference under this section the arbitrator shall consider whether (disregarding the rent payable for the holding) the terms referred to arbitration are justifiable having regard to the circumstances of the holding and of the landlord and the tenant, and, if he determines that they are not so justifiable, he may by his award vary them in such manner as appears to him reasonable and just between the landlord and tenant.
- (4) Where it appears to the arbitrator on any reference under this section that by reason of any provision included in his award it is equitable that the rent of the holding should be varied, he may vary the rent accordingly.

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- (5) The award of an arbitrator under this section shall have effect as if the terms and provisions specified and made in the award were contained in an agreement in writing entered into by the landlord and the tenant and having effect (by way of variation of the agreement previously in force in respect of the tenancy) as from the making of the award or, if the award so provides, from such later date as may be specified in it.
- (6) Where there has been a reference under this section relating to a tenancy, no further such reference relating to that tenancy shall be made before the expiry of three years from the coming into effect of the award of the arbitrator on the previous reference.

9 Transitional arrangements where liability in respect of fixed equipment transferred.

- (1) Where by virtue of section 6, 7 or 8 above the liability for the maintenance or repair of any item of fixed equipment is transferred from the tenant to the landlord, the landlord may within the prescribed period beginning with the date on which the transfer takes effect require that there shall be determined by arbitration under this Act and paid by the tenant the amount of any relevant compensation.
- (2) In subsection (1) above “relevant compensation” means compensation which would have been payable either under subsection (1) of section 71 below or in accordance with subsection (3) of that section, in respect of any previous failure by the tenant to discharge the liability mentioned in subsection (1) above, if the tenant had quitted the holding on the termination of his tenancy at the date on which the transfer takes effect.
- (3) Where by virtue of section 6, 7 or 8 above the liability for the maintenance or repair of any item of fixed equipment is transferred from the landlord to the tenant, any claim by the tenant in respect of any previous failure by the landlord to discharge the said liability shall, if the tenant within the prescribed period beginning with the date on which the transfer takes effect so requires, be determined by arbitration under this Act.
- (4) Where the terms of a tenancy of an agricultural holding as to the maintenance, repair or insurance of fixed equipment (whether established by the operation of regulations under section 7 above or by agreement) are varied by new regulations made under that section, then, if a reference is made under section 6 above within the prescribed period after the coming into operation of the new regulations, the arbitrator shall, for the purposes of subsection (2) of the said section 6, disregard the variation.

10 Tenant’s right to remove fixtures and buildings.

- (1) Subject to the provisions of this section—
 - (a) any engine, machinery, fencing or other fixture (of whatever description) affixed, whether for the purposes of agriculture or not, to an agricultural holding by the tenant, and
 - (b) any building erected by him on the holding,
 shall be removable by the tenant at any time during the continuance of the tenancy or before the expiry of two months from its termination, and shall remain his property so long as he may remove it by virtue of this subsection.
- (2) Subsection (1) above shall not apply—
 - (a) to a fixture affixed or a building erected in pursuance of some obligation,
 - (b) to a fixture affixed or a building erected instead of some fixture or building belonging to the landlord,

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- (c) to a building in respect of which the tenant is entitled to compensation under this Act or otherwise, or
 - (d) to a fixture affixed or a building erected before 1st January 1884.
- (3) The right conferred by subsection (1) above shall not be exercisable in relation to a fixture or building unless the tenant—
- (a) has paid all rent owing by him and has performed or satisfied all his other obligations to the landlord in respect of the holding, and
 - (b) has, at least one month before both the exercise of the right and the termination of the tenancy, given to the landlord notice in writing of his intention to remove the fixture or building.
- (4) If, before the expiry of the notice mentioned in subsection (3) above, the landlord gives to the tenant a counter-notice in writing electing to purchase a fixture or building comprised in the notice, subsection (1) above shall cease to apply to that fixture or building, but the landlord shall be liable to pay to the tenant the fair value of that fixture or building to an incoming tenant of the holding.
- (5) In the removal of a fixture or building by virtue of subsection (1) above, the tenant shall not do any avoidable damage to any other building or other part of the holding, and immediately after the removal shall make good all damage so done that is occasioned by the removal.
- (6) Any dispute between the landlord and the tenant with respect to the amount payable by the landlord under subsection (4) above in respect of any fixture or building shall be determined by arbitration under this Act.
- (7) This section shall apply to a fixture or building acquired by a tenant as it applies to a fixture or building affixed or erected by him.
- (8) This section shall not be taken as prejudicing any right to remove a fixture that subsists otherwise than by virtue of this section.

11 Provision of fixed equipment necessary to comply with statutory requirements.

- (1) Where, on an application by the tenant of an agricultural holding, the Tribunal are satisfied that it is reasonable, having regard to the tenant's responsibilities to farm the holding in accordance with the rules of good husbandry, that he should carry on on the holding an agricultural activity specified in the application to the extent and in the manner so specified and—
- (a) that, unless fixed equipment is provided on the holding, the tenant, in carrying on that activity to that extent and in that manner, will contravene requirements imposed by or under any enactment, or
 - (b) that it is reasonable that the tenant should use, for purposes connected with that activity, fixed equipment already provided on the holding, but that, unless that equipment is altered or repaired, the tenant, in using the equipment for those purposes, will contravene such requirements,
- the Tribunal may direct the landlord to carry out, within a period specified in the direction, such work for the provision or, as the case may be, the alteration or repair of that fixed equipment as will enable the tenant to comply with the said requirements.
- (2) Where it appears to the Tribunal that an agricultural activity specified in the tenant's application has not been carried on on the holding continuously for a period of at least three years immediately preceding the making of the application the Tribunal shall not

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direct the landlord to carry out the work in connection with that activity unless they are satisfied that the starting of the activity did not or, where the activity has not yet been started, will not constitute or form part of a substantial alteration of the type of farming carried on on the holding.

- (3) The Tribunal shall not direct the landlord to carry out work under this section unless they are satisfied—
- (a) that it is reasonable to do so having regard to the landlord's responsibilities to manage the land comprised in the holding in accordance with the rules of good estate management and also to the period for which the holding may be expected to remain a separate holding and to any other material consideration, and
 - (b) that the landlord has refused to carry out that work on being requested in writing to do so by the tenant or has not agreed to carry it out within a reasonable time after being so requested.
- (4) The Tribunal shall not direct the landlord to carry out work under this section if he is under a duty to carry out the work in order to comply with a requirement imposed on him by or under any enactment or if provision is made by the contract of tenancy, or by any other agreement between the landlord and the tenant, for the carrying out of work by one of them.
- (5) If the landlord fails to comply with a direction under this section the tenant shall have the same remedies as if the contract of tenancy had contained an undertaking by the landlord to carry out the work required by the direction within the period allowed by the Tribunal.
- (6) Notwithstanding any term in the contract of tenancy restricting the carrying out by the tenant of alterations to the holding, the remedies referred to in subsection (5) above shall include the right of the tenant to carry out the work himself and recover the reasonable cost of the work from the landlord.
- (7) The Tribunal, on an application by the landlord, may extend or further extend the period specified in a direction under this section if it is shown to their satisfaction that the period so specified, or that period as previously extended under this subsection, as the case may be, will not allow sufficient time both for the completion of preliminary arrangements necessary or desirable in connection with the work required by the direction (including, in appropriate cases, the determination of an application by the landlord for a grant out of money provided by Parliament in respect of that work) and for the carrying out of the said work.
- (8) The reference in subsection (6) above to the reasonable cost of work carried out by a tenant shall, where the tenant has received a grant in respect of the work out of money provided by Parliament, be construed as a reference to the reasonable cost reduced by the amount of the grant.

Variation of rent

12 Arbitration of rent.

- (1) Subject to the provisions of Schedule 2 to this Act, the landlord or tenant of an agricultural holding may by notice in writing served on the other demand that the rent to be payable in respect of the holding as from the next termination date shall be referred to arbitration under this Act.

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- (2) On a reference under this section the arbitrator shall determine what rent should be properly payable in respect of the holding at the date of the reference and accordingly shall, with effect from the next termination date following the date of the demand for arbitration, increase or reduce the rent previously payable or direct that it shall continue unchanged.
- (3) A demand for arbitration under this section shall cease to be effective for the purposes of this section on the next termination date following the date of the demand unless before the said termination date—
 - (a) an arbitrator has been appointed by agreement between the parties, or
 - (b) an application has been made to the President of the Royal Institute of Chartered Surveyors for the appointment of an arbitrator by him.
- (4) References in this section (and in Schedule 2 to this Act) in relation to a demand for arbitration with respect to the rent of any holding, to the next termination date following the date of the demand are references to the next day following the date of the demand on which the tenancy of the holding could have been determined by notice to quit given at the date of the demand.
- (5) Schedule 2 to this Act shall have effect for supplementing this section.

13 Increases of rent for landlord's improvements.

- (1) Where the landlord of an agricultural holding has carried out on the holding any improvement to which this section applies he may by notice in writing served on the tenant within six months from the completion of the improvement increase the rent of the holding as from the completion of the improvement by an amount equal to the increase in the rental value of the holding attributable to the carrying out of the improvement.
- (2) This section applies to—
 - (a) an improvement carried out at the request of, or in agreement with, the tenant,
 - (b) an improvement carried out in compliance with a direction given by the Tribunal under section 11 above,
 - (c) an improvement carried out in pursuance of a notice served by the landlord under section 67(5) below,
 - (d) an improvement carried out in compliance with a direction given by the Minister under powers conferred on him by or under any enactment,
 - (e) works executed on the holding for the purpose of complying with the requirements of a notice under section 3 of the ^{M4}Agriculture (Safety, Health and Welfare Provisions) Act 1956 (provision of sanitary conveniences and washing facilities),
 - (f) an improvement carried out in compliance with an improvement notice served, or an undertaking accepted, under Part VII of the ^{M5}Housing Act 1985 or Part VIII of the ^{M6}Housing Act 1974.
- (3) No increase of rent shall be made under subsection (1) above in respect of an improvement within paragraph (a), (b) or (f) of subsection (2) above if within six months from its completion the landlord and tenant agree on any increase of rent or other benefit to the landlord in respect of the improvement.
- (4) The increase in rent provided for by subsection (1) above shall be reduced proportionately—

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- (a) in the case of an improvement within paragraph (b) of subsection (2) above, where a grant has been made to the landlord in respect of the improvement out of money provided by Parliament,
 - (b) in the case of an improvement within any other paragraph of that subsection, where a grant has been made to the landlord in respect of the improvement out of money provided by Parliament or local government funds, and
 - (c) in the case of an improvement within paragraph (f) of that subsection, where the tenant has contributed to the cost incurred by his landlord in carrying out the improvement.
- (5) Where, on the failure of a landlord to carry out an improvement specified in such a direction as is referred to in subsection (2)(b) above, the tenant has himself carried out the improvement, the provisions of this section shall apply as if the improvement had been carried out by the landlord and as if any grant made to the tenant in respect of the improvement out of money provided by Parliament had been made to the landlord.
- (6) No increase in rent shall take effect by virtue of subsection (5) above until the tenant has recovered from the landlord the reasonable cost of the improvement reduced by the amount of any grant made to the tenant in respect of the improvement out of money provided by Parliament.
- (7) Any dispute arising between the landlord and the tenant of the holding under this section shall be determined by arbitration under this Act.
- (8) This section applies to an improvement whether or not it is one for the carrying out of which compensation is provided under Part V or VI of this Act.

Modifications etc. (not altering text)

C1 S. 13 modified by [Opencast Coal Act 1958 \(c. 69, SIF 86\)](#), [s. 14\(7\)](#) as substituted by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), [s. 39\(3\)](#), [Sch. 8 para. 5](#)

Marginal Citations

M4 1956 c. 49.
M5 1985 c. 68.
M6 1974 c. 44.

Cultivation of land and disposal of produce

14 Variation of terms of tenancies as to permanent pasture.

- (1) This section applies where a contract for a tenancy of an agricultural holding provides for the maintenance of specified land, or a specified proportion of the holding, as permanent pasture.
- (2) Where this section applies, the landlord or tenant may, by notice in writing served on the other, demand a reference to arbitration under this Act of the question whether it is expedient in order to secure the full and efficient farming of the holding that the area of land required to be maintained as permanent pasture should be reduced.
- (3) On a reference under subsection (2) above the arbitrator may by his award direct that the provisions of the contract of tenancy as to land which is to be maintained as

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permanent pasture or is to be treated as arable land and as to cropping shall have effect subject to such modifications as may be specified in the direction.

- (4) If, on a reference under subsection (2) above, the arbitrator gives a direction reducing the area of land which under the contract of tenancy is to be maintained as permanent pasture, he may order that the contract of tenancy shall have effect as if it provided that on quitting the holding on the termination of the tenancy the tenant should leave—

- (a) as permanent pasture, or
- (b) as temporary pasture sown with seeds mixture of such kind as may be specified in the order,

such area of land (in addition to the area of land required by the contract of tenancy, as modified by the direction, to be maintained as permanent pasture) as may be so specified.

- (5) The area of land specified in an order made under subsection (4) above shall not exceed the area by which the land required by the contract of tenancy to be maintained as permanent pasture has been reduced by virtue of the direction.

15 Disposal of produce and cropping.

- (1) Subject to the provision of this section and to section 82 below, the tenant of an agricultural holding shall (notwithstanding any custom of the country or the provisions of the contract of tenancy or of any agreement respecting the disposal of crops or the method of cropping of arable land) have, without incurring any penalty, forfeiture or liability, the following rights, namely—

- (a) to dispose of the produce of the holding, other than manure produced on the holding, and
- (b) to practise any system of cropping of the arable land on the holding.

- (2) Subsection (1) above shall not apply—

- (a) in the case of a tenancy from year to year, as respects the year before the tenant quits the holding or any period after he has given or received notice to quit which results in his quitting the holding, or
- (b) in the case of any other tenancy, as respects the year before its termination.

- (3) Subject to any agreement in writing to the contrary, the tenant of an agricultural holding shall not at any time after he has given or received notice to quit the holding sell or remove from the holding any manure or compost or any hay or straw or roots grown in the last year of the tenancy unless the landlord's written consent has been obtained before the sale or removal.

- (4) Before, or as soon as possible after, exercising his rights under subsection (1) above, a tenant shall make suitable and adequate provision—

- (a) in the case of an exercise of the right to dispose of produce, to return to the holding the full equivalent manorial value of all crops sold off or removed from the holding in contravention of the custom, contract or agreement, and
- (b) in the case of an exercise of the right to practise any system of cropping, to protect the holding from injury or deterioration.

- (5) If the tenant of an agricultural holding exercises his rights under subsection (1) above in such manner as to, or to be likely to, injure or deteriorate the holding, the landlord shall have the following remedies, but no other, namely—

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- (a) the right to obtain, if the case so requires, an injunction to restrain the exercise of those rights in that manner, and
 - (b) the right in any case, on the tenant's quitting the holding on the termination of the tenancy, to recover damages for any injury to or deterioration of the holding attributable to the exercise by the tenant of those rights.
- (6) For the purposes of any proceedings for an injunction brought under paragraph (a) of subsection (5) above, the question whether the tenant is exercising, or has exercised, his rights under subsection (1) above in such a manner as to, or to be likely to, injure or deteriorate his holding shall be determined by arbitration under this Act; and the award of the arbitrator shall, for the purposes of any proceedings brought under subsection (5) (including an arbitration under paragraph (b)) be conclusive proof of the facts stated in the award.
- (7) In this section—
- “arable land” does not include land in grass which, by the terms of a contract of tenancy, is to be retained in the same condition throughout the tenancy; and
 - “roots” means the produce of any root crop of a kind normally grown for consumption on the holding.

Distress

16 No distress for rent due more than a year previously.

- (1) Subject to subsection (2) below, the landlord of an agricultural holding shall not be entitled to distrain for rent which became due in respect of that holding more than one year before the making of the distress.
- (2) Where it appears that, according to the ordinary course of dealing between the landlord and the tenant of the holding, the payment of rent has been deferred until the expiry of a quarter or half-year after the date at which the rent legally became due, the rent shall, for the purposes of subsection (1) above, be deemed to have become due at the expiry of that quarter or half-year and not at the date at which it became legally due.

17 Compensation to be set off against rent for purposes of distress.

Where the amount of any compensation due to the tenant of an agricultural holding, whether under this Act or under custom or agreement, has been ascertained before the landlord distrains for rent, that amount may be set off against the rent and the landlord shall not be entitled to distrain for more than the balance.

18 Restrictions on distraining on property of third party.

- (1) Property belonging to a person other than the tenant of an agricultural holding shall not be distrained for rent if—
 - (a) the property is agricultural or other machinery and is on the holding under an agreement with the tenant for its hire or use in the conduct of his business, or
 - (b) the property is livestock and is on the holding solely for breeding purposes.
- (2) Agisted livestock shall not be distrained by the landlord of an agricultural holding for rent where there is other sufficient distress to be found; and if such livestock is

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distraigned by him by reason of other sufficient distress not being found, there shall not be recovered by that distress a sum exceeding the amount of the price agreed to be paid for the feeding, or any part of the price which remains unpaid.

- (3) The owner of the agisted livestock may, at any time before it is sold, redeem it by paying to the distrainer a sum equal to the amount mentioned in subsection (2) above, and payment of that sum to the distrainer shall be in full discharge as against the tenant of any sum of that amount which would otherwise be due from the owner of the livestock to the tenant in respect of the price of feeding.
- (4) Any portion of the agisted livestock shall, so long as it remains on the holding, continue liable to be distraigned for the amount for which the whole of the livestock is distrainable.
- (5) In this section “livestock” includes any animal capable of being distraigned; and “agisted livestock” means livestock belonging to another person which has been taken in by the tenant of an agricultural holding to be fed at a fair price.

19 Settlement of disputes as to distress.

- (1) Where a dispute arises—
 - (a) in respect of any distress having been levied on an agricultural holding contrary to the provisions of this Act,
 - (b) as to the ownership of any livestock distraigned or as to the price to be paid for the feeding of that stock, or
 - (c) as to any other matter or thing relating to a distress on an agricultural holding,the dispute may be determined by the county court or on complaint by a magistrates’ court, and the court may make an order for restoration of any livestock or things unlawfully distraigned, may declare the price agreed to be paid for feeding or may make any other order that justice requires.
- (2) Any person aggrieved by a decision of a magistrates’ court under this section may appeal to the Crown Court.
- (3) In this section “livestock” includes any animal capable of being distraigned.

Miscellaneous

20 Compensation for damage by game.

- (1) Where the tenant of an agricultural holding has sustained damage to his crops from any wild animals or birds the right to kill and take which is vested in the landlord or anyone (other than the tenant himself) claiming under the landlord, being animals or birds which the tenant has not permission in writing to kill, he shall, if he complies with the requirements of subsection (2) below, be entitled to compensation from his landlord for the damage.
- (2) The requirements of this subsection are that the tenant shall give his landlord—
 - (a) notice in writing within one month after the tenant first became, or ought reasonably to have become, aware of the occurrence of the damage,
 - (b) a reasonable opportunity to inspect the damage—
 - (i) in the case of damage to a growing crop, before the crop is begun to be reaped, raised or consumed, and

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- (ii) in the case of damage to a crop which has been reaped or raised, before the crop is begun to be removed from the land, and
 - (c) notice in writing of the claim, together with particulars of it, within one month after the expiry of the year in respect of which the claim is made.
- (3) For the purposes of subsection (2) above—
- (a) seed once sown shall be treated as a growing crop whether or not it has germinated, and
 - (b) “year” means any period of twelve months ending, in any year, with 29th September or with such other date as may by agreement between the landlord and tenant be substituted for that date.
- (4) The amount of compensation under this section shall, in default of agreement made after the damage has been suffered, be determined by arbitration under this Act.
- (5) Where the right to kill and take the wild animals or birds that did the damage is vested in some person other than the landlord, the landlord shall be entitled to be indemnified by that other person against all claims for compensation under this section; and any question arising under this subsection shall be determined by arbitration under this Act.

21 Extension of tenancies in lieu of claims to emblements.

- (1) Where the tenancy of an agricultural holding held by a tenant at a rackrent determines by the death or cesser of the estate of any landlord entitled for his life, or for any other uncertain interest, instead of claims to emblements the tenant shall continue to hold and occupy the holding until the occupation is determined by a twelve months’ notice to quit expiring at the end of a year of the tenancy, and shall then quit upon the terms of his tenancy in the same manner as if the tenancy were then determined by effluxion of time or other lawful means during the continuance of his landlord’s estate.
- (2) The succeeding landlord shall be entitled to recover from the tenant, in the same manner as his predecessor could have done, a fair proportion of the rent for the period which may have elapsed from the date of the death or cesser of the estate of his predecessor to the time of the tenant so quitting.
- (3) The succeeding landlord and the tenant respectively shall as between themselves and as against each other be entitled to all the benefits and advantages and be subject to the terms, conditions and restrictions to which the preceding landlord and the tenant respectively would have been entitled and subject if the tenancy had determined in manner aforesaid at the expiry of the said twelve months’ notice.

22 Rights to require certain records to be made.

- (1) At any time during the tenancy of an agricultural holding—
- (a) the landlord or the tenant may require the making of a record of the condition of the fixed equipment on the holding and of the general condition of the holding itself (including any parts not under cultivation), and
 - (b) the tenant may require the making of a record of any fixtures or buildings which, under section 10 above, he is entitled to remove and of existing improvements executed by him or in respect of the execution of which he, with the written consent of the landlord, paid compensation to an outgoing tenant.

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- (2) Any such record shall be made by a person appointed, in default of agreement between the landlord and tenant, by the President of the Royal Institution of Chartered Surveyors (referred to in this section as “the President”); and any person so appointed may, on production of evidence of his appointment, enter the holding at all reasonable times for the purpose of making any such record.
- (3) The cost of making any such record shall, in default of agreement between the landlord and tenant, be borne by them in equal shares.
- (4) No application may be made to the President for a person to be appointed by him under subsection (2) above unless the application is accompanied by such fee as may be prescribed as the fee for such an application.
- (5) Any instrument of appointment purporting to be made by the President by virtue of subsection (2) above and to be signed by or on behalf of the President shall be taken to be such an instrument unless the contrary is shown.

Modifications etc. (not altering text)

C2 S. 22(2) amended (1.3.1996) by S.I. 1996/337, art. 2(a).

23 Landlord’s power of entry.

The landlord of an agricultural holding or any person authorised by him may at all reasonable times enter on the holding for any of the following purposes, namely—

- (a) viewing the state of the holding,
- (b) fulfilling the landlord’s responsibilities to manage the holding in accordance with the rules of good estate management,
- (c) providing or improving fixed equipment on the holding otherwise than in fulfilment of those responsibilities.

24 Restriction of landlord’s remedies for breach of contract of tenancy.

Notwithstanding any provision in a contract of tenancy of an agricultural holding making the tenant liable to pay a higher rent or other liquidated damages in the event of a breach or non-fulfilment of a term or condition of the contract, the landlord shall not be entitled to recover in consequence of any such breach or non-fulfilment, by distress or otherwise, any sum in excess of the damage actually suffered by him in consequence of the breach or non-fulfilment.

PART III

NOTICES TO QUIT

Modifications etc. (not altering text)

C3 Pts. III–VI (ss. 25–82) excluded by Housing Act 1988 (c. 50, SIF 61), s. 101

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Notices to quit whole or part of agricultural holding

25 Length of notice to quit.

- (1) A notice to quit an agricultural holding or part of an agricultural holding shall (notwithstanding any provision to the contrary in the contract of tenancy of the holding) be invalid if it purports to terminate the tenancy before the expiry of twelve months from the end of the then current year of tenancy.
- (2) Subsection (1) above shall not apply—
 - (a) where the tenant is insolvent,
 - (b) to a notice given in pursuance of a provision in the contract of tenancy authorising the resumption of possession of the holding or some part of it for some specified purpose other than the use of the land for agriculture,
 - (c) to a notice given by a tenant to a sub-tenant,
 - (d) where the tenancy is one which, by virtue of subsection (6) of section 149 of the ^{M7}Law of Property Act 1925, has taken effect as such a term of years as is mentioned in that subsection.
- (3) Where on a reference under section 12 above with respect to an agricultural holding the arbitrator determines that the rent payable in respect of the holding shall be increased, a notice to quit the holding given by the tenant at least six months before it purports to take effect shall not be invalid by virtue of subsection (1) above if it purports to terminate the tenancy at the end of the year of the tenancy beginning with the date as from which the increase of rent is effective.
- (4) On an application made to the Tribunal with respect to an agricultural holding under paragraph 9 of Part II of Schedule 3 to this Act, the Tribunal may, if they grant a certificate in accordance with the application—
 - (a) specify in the certificate a minimum period of notice for termination of the tenancy (not being a period of less than two months), and
 - (b) direct that that period shall apply instead of the period of notice required in accordance with subsection (1) above;

and in any such case a notice to quit the holding which states that the Tribunal have given a direction under this subsection shall not be invalid by virtue of subsection (1) above if the notice given is not less than the minimum notice specified in the certificate.
- (5) A notice to quit within subsection (3) or (4) above shall not be invalid by virtue of any term of the contract of tenancy requiring a longer period of notice to terminate the tenancy, and a notice to quit within subsection (4) above shall not be invalid by reason of its terminating at a date other than the end of a year of the tenancy.

Marginal Citations

M7 1925 c. 20.

26 Restriction on operation of notices to quit.

- (1) Where—
 - (a) notice to quit an agricultural holding or part of an agricultural holding is given to the tenant, and

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- (b) not later than one month from the giving of the notice to quit the tenant serves on the landlord a counter-notice in writing requiring that this subsection shall apply to the notice to quit,
then, subject to subsection (2) below, the notice to quit shall not have effect unless, on an application by the landlord, the Tribunal consent to its operation.
- (2) Subsection (1) above shall not apply in any of the Cases set out in Part I of Schedule 3 to this Act; and in this Act “Case A”, “Case B” (and so on) refer severally to the Cases set out and so named in that Part of that Schedule.
- (3) Part II of that Schedule shall have effect in relation to the Cases there specified.

Modifications etc. (not altering text)

- C4 S. 26(1) modified by S.I. 1987/710, arts. 11, 17(4)
C5 S. 26(1) excluded by S.I. 1987/710, art. 16

27 Tribunal’s consent to operation of notice to quit.

- (1) Subject to subsection (2) below, the Tribunal shall consent under section 26 above to the operation of a notice to quit an agricultural holding or part of an agricultural holding if, but only if, they are satisfied as to one or more of the matters mentioned in subsection (3) below, being a matter or matters specified by the landlord in his application for their consent.
- (2) Even if they are satisfied as mentioned in subsection (1) above, the Tribunal shall withhold consent under section 26 above to the operation of the notice to quit if in all the circumstances it appears to them that a fair and reasonable landlord would not insist on possession.
- (3) The matters referred to in subsection (1) above are—
- (a) that the carrying out of the purpose for which the landlord proposes to terminate the tenancy is desirable in the interests of good husbandry as respects the land to which the notice relates, treated as a separate unit;
 - (b) that the carrying out of the purpose is desirable in the interests of sound management of the estate of which the land to which the notice relates forms part or which that land constitutes;
 - (c) that the carrying out of the purpose is desirable for the purposes of agricultural research, education, experiment or demonstration, or for the purposes of the enactments relating to smallholdings;
 - (d) that the carrying out of the purpose is desirable for the purposes of the enactments relating to allotments;
 - (e) that greater hardship would be caused by withholding than by giving consent to the operation of the notice;
 - (f) that the landlord proposes to terminate the tenancy for the purpose of the land’s being used for a use, other than for agriculture, not falling within Case B.
- (4) Where the Tribunal consent under section 26 above to the operation of a notice to quit, they may impose such conditions as appear to them requisite for securing that the land to which the notice relates will be used for the purpose for which the landlord proposes to terminate the tenancy.

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- (5) Where, on an application by the landlord, the Tribunal are satisfied that, by reason of any change of circumstances or otherwise, any condition imposed under subsection (4) above ought to be varied or revoked, they shall vary or revoke the condition accordingly.
- (6) Where—
- (a) on giving consent under section 26 above to the operation of a notice to quit the Tribunal imposed a condition under subsection (4) above, and
 - (b) it is proved on an application to the Tribunal on behalf of the Crown that the landlord has acted in contravention of the condition or has failed within the time allowed by the condition to comply with it,
- the Tribunal may by order impose on the landlord a penalty of an amount not exceeding two years' rent of the holding at the rate at which rent was payable immediately before the termination of the tenancy, or, where the notice to quit related to a part only of the holding, of an amount not exceeding the proportion of the said two years' rent which it appears to the Tribunal is attributable to that part.
- (7) The Tribunal may, in proceedings under this section, by order provide for the payment by any party of such sum as the Tribunal consider a reasonable contribution towards costs.
- (8) A penalty imposed under subsection (6) above shall be a debt due to the Crown and shall, when recovered, be paid into the Consolidated Fund.
- (9) An order under subsection (6) or (7) above shall be enforceable in the same manner as a judgment or order of the county court to the like effect.

Modifications etc. (not altering text)

C6 S. 27(1)(3) modified by [Opencast Coal Act 1958 \(c. 69, SIF 86\)](#), s. 14(5) as substituted by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(3), [Sch. 8 para. 5](#)

28 Additional restrictions on operation of notice to quit given under Case D.

- (1) This section applies where—
- (a) notice to quit an agricultural holding or part of an agricultural holding is given to the tenant, and
 - (b) the notice includes a statement in accordance with Case D to the effect that it is given by reason of the tenant's failure to comply with a notice to do work.
- (2) If the tenant serves on the landlord a counter-notice in writing in accordance with subsection (3) or (4) below requiring that this subsection shall apply to the notice to quit, the notice to quit shall not have effect (whether as a notice to which section 26(1) above does or does not apply) unless, on an application by the landlord, the Tribunal consent to its operation.
- (3) Subject to subsection (4) below, a counter-notice under subsection (2) above shall be served not later than one month from the giving of the notice to quit.
- (4) Where the tenant not later than one month from the giving of the notice to quit serves on the landlord an effective notice requiring the validity of the reason stated in the notice to quit to be determined by arbitration under this Act—

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- (a) any counter-notice already served under subsection (2) above shall be of no effect, but
 - (b) if the notice to quit would, apart from this subsection, have effect in consequence of the arbitration, the tenant may serve a counter-notice under subsection (2) not later than one month from the date on which the arbitrator's award is delivered to him.
- (5) The Tribunal shall consent under subsection (2) above to the operation of the notice to quit unless it appears to them, having regard—
- (a) to the extent to which the tenant has failed to comply with the notice to do work,
 - (b) to the consequences of his failure to comply with it in any respect, and
 - (c) to the circumstances surrounding any such failure,
- that a fair and reasonable landlord would not insist on possession.
- (6) In this section “notice to do work” means a notice served on a tenant of an agricultural holding for the purposes of paragraph (b) of Case D, being a notice requiring the doing of any work of repair, maintenance or replacement.

29 Power to make supplementary provision.

The Lord Chancellor may by order provide for any of the matters specified in Schedule 4 to this Act.

30 Notice to quit where tenant is a service man.

Schedule 5 to this Act, which makes provision as to notices to quit in cases where the tenant of an agricultural holding is a service man, shall have effect.

Notices to quit part of agricultural holding

31 Notice to quit part of holding valid in certain cases.

- (1) A notice to quit part of an agricultural holding held on a tenancy from year to year given by the landlord of the holding shall not be invalid on the ground that it relates to part only of the holding if it is given—
- (a) for the purpose of adjusting the boundaries between agricultural units or amalgamating agricultural units or parts of such units, or
 - (b) with a view to the use of the land to which the notice relates for any of the objects mentioned in subsection (2) below,
- and the notice states that it is given for that purpose or with a view to any such use, as the case may be.
- (2) The objects referred to in subsection (1) above are—
- (a) the erection of cottages or other houses for farm labourers, whether with or without gardens;
 - (b) the provision of gardens for cottages or other houses for farm labourers;
 - (c) the provision of allotments;
 - (d) the letting of land (with or without other land) as a smallholding under Part III of the ^{M8}Agriculture Act 1970;

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- (e) the planting of trees;
- (f) the opening or working of a deposit of coal, ironstone, limestone, brick-earth or other mineral, or a stone quarry or a clay, sand or gravel pit, or the construction of any works or buildings to be used in connection therewith;
- (g) the making of a watercourse or reservoir;
- (h) the making of a road, railway, tramroad, siding, canal of basin, or a wharf, pier, or other work connected therewith.

Marginal Citations

M8 1970 c. 40.

32 Right to treat notice to quit part of holding as notice to quit entire holding.

- (1) Where there is given to the tenant of an agricultural holding a notice to quit part of the holding, being either—
- (a) such a notice as is rendered valid by section 31 above, or
 - (b) a notice given by a person entitled to a severed part of the reversionary estate in the holding,
- subsection (2) below shall apply.

- (2) If—
- (a) within twenty-eight days after the giving of the notice, or
 - (b) where the operation of the notice depends on any proceedings under this Part of this Act, within twenty-eight days after the time at which it is determined that the notice has effect,

the tenant gives to the landlord or (as the case may be) to the persons severally entitled to the severed parts of the reversion a counter-notice in writing to the effect that he accepts the notice to quit as a notice to quit the entire holding given by the landlord or (as the case may be) those persons, to take effect at the same time as the original notice, the notice to quit shall have effect accordingly.

33 Reduction of rent where notice is given to quit part of holding.

- (1) Where the landlord of an agricultural holding resumes possession of part of the holding either—
- (a) by virtue of section 31(1) above, or
 - (b) in pursuance of a provision in that behalf contained in the contract of tenancy,
- the tenant shall be entitled to a reduction of rent proportionate to that part of the holding and in respect of any depreciation of the value to him of the residue of the holding caused by the severance or by the use to be made of the part severed.
- (2) The amount of any reduction of rent under this section shall, in default of agreement made after the landlord resumes possession of the part of the holding concerned, be determined by arbitration under this Act.
- (3) In a case falling within subsection (1)(b) above that falls to be determined by arbitration under this Act the arbitrator, in assessing the amount of the reduction, shall take into consideration any benefit or relief allowed to the tenant under the contract of tenancy in respect of the land possession of which is resumed by the landlord.

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PART IV

SUCCESSION ON DEATH OR RETIREMENT OF TENANT

Modifications etc. (not altering text)

C7 Pts. III–VI (ss. 25–82) excluded by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 101

Tenancies to which Part IV applies

34 Tenancies to which Part IV applies.

- (1) The provisions of this Part of this Act shall have effect with respect to—
- (a) any tenancy of an agricultural holding granted before 12th July 1984, and
 - (b) a tenancy granted on or after that date if (but only if)—
 - (i) the tenancy was obtained by virtue of a direction of the Tribunal under section 39 or 53 below,
 - (ii) the tenancy was granted (following a direction under section 39 below) in circumstances within section 45(6) below,
 - (iii) the tenancy was granted by a written contract of tenancy indicating (in whatever terms) that this Part of this Act is to apply in relation to the tenancy, or
 - (iv) the tenancy was granted otherwise than as mentioned in the preceding provisions of this subsection to a person who, immediately before that date, was a tenant of the holding or of any agricultural holding which comprised the whole or a substantial part of the land comprised in the holding.
- (2) In this section “tenant” does not include an executor, administrator, trustee in bankruptcy or other person deriving title from a tenant by operation of law.

Succession on death of tenant

35 Application of sections 36 to 48.

- (1) Sections 36 to 48 below (except sections 40(5), 42 and 45(8) which are of general application) shall apply where—
- (a) an agricultural holding is held under a tenancy which falls within paragraph (a) or (b) of section 34(1) above, and
 - (b) the sole (or sole surviving) tenant (within the meaning of that section) dies and is survived by a close relative of his.
- (2) In sections 36 to 48 below (and in Part I of Schedule 6 to this Act)—
- “close relative” of a deceased tenant means—
- (a) the wife or husband of the deceased;
 - (b) a brother or sister of the deceased;
 - (c) a child of the deceased;

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- (d) any person (not within (b) or (c) above) who, in the case of any marriage to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage;
- “the date of death” means the date of the death of the deceased;
- “the deceased” means the deceased tenant of the holding;
- “the holding” (except where the context otherwise requires) means the agricultural holding mentioned in subsection (1) above;
- “related holding” means, in relation to the holding, any agricultural holding comprising the whole or a substantial part of the land comprised in the holding;
- “the tenancy” means the tenancy of the holding.

36 Right of any eligible person to apply for new tenancy on death of tenant.

- (1) Any eligible person may apply under section 39 below to the Tribunal for a direction entitling him to a tenancy of the holding unless excluded by subsection (2) or section 37 or 38 below.
- (2) Subsection (1) above (and section 41 below) shall not apply if on the date of death the holding was held by the deceased under—
- (a) a tenancy for a fixed term of years of which more than twenty-seven months remained unexpired, or
- (b) a tenancy for a fixed term of more than one but less than two years.
- (3) For the purposes of this section and sections 37 to 48 below, “eligible person” means (subject to the provisions of Part I of Schedule 6 to this Act and without prejudice to section 41 below) any surviving close relative of the deceased in whose case the following conditions are satisfied—
- (a) in the seven years ending with the date of death his only or principal source of livelihood throughout a continuous period of not less than five years, or two or more discontinuous periods together amounting to not less than five years, derived from his agricultural work on the holding or on an agricultural unit of which the holding forms part, and
- (b) he is not the occupier of a commercial unit of agricultural land.
- (4) In the case of the deceased’s wife the reference in subsection (3)(a) above to the relative’s agricultural work shall be read as a reference to agricultural work carried out by either the wife or the deceased (or both of them).
- (5) Part I of Schedule 6 to this Act, which supplements subsection (3) above and makes provision with respect to the assessment of the productive capacity of agricultural land for the purposes of paragraph (b) of that subsection, shall have effect.

37 Exclusion of statutory succession where two successions have already occurred.

- (1) Section 36(1) above (and section 41 below) shall not apply if on each of the last two occasions when there died a sole (or sole surviving) tenant of the holding or of a related holding there occurred one or other of the following things, namely—
- (a) a tenancy of the holding or of a related holding was obtained by virtue of a direction of the Tribunal under section 39 below, or such a tenancy was granted (following such a direction) in circumstances within section 45(6) below, or

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- (b) a tenancy of the holding or of a related holding was granted by the landlord to a person who, being a close relative of the tenant who died on that occasion, was or had become the sole or sole remaining applicant for such a direction.
- (2) If on any occasion prior to the date of death, as a result of an agreement between the landlord and the tenant for the time being of the holding or of a related holding, the holding or a related holding became let—
 - (a) under a tenancy granted by the landlord, or
 - (b) by virtue of an assignment of the current tenancy,to a person who, if the said tenant had died immediately before the grant or assignment would have been his close relative, that occasion shall for the purposes of subsection (1) above be deemed to be an occasion such as is mentioned in that subsection on which a tenancy of the holding or a related holding was obtained by virtue of a direction of the Tribunal under section 39 below.
- (3) If any such tenancy was granted as mentioned in subsection (2) above for a term commencing later than the date of the grant, the holding under that tenancy shall for the purposes of that subsection not be taken to have become let under that tenancy until the commencement of the term.
- (4) Subsections (1) and (2) above—
 - (a) shall apply whether or not any tenancy granted or obtained (otherwise than by virtue of an assignment) as mentioned in those provisions related to the whole of the land held by the tenant on the occasion of whose death, or with whose agreement, the tenancy was so granted or obtained, as the case may be, and
 - (b) shall apply where a joint tenancy is granted by the landlord to persons one of whom is a person such as is mentioned in either of those subsections as they apply where a tenancy is granted by the landlord to any such person alone.
- (5) Subsection (2) above shall apply where a tenancy is assigned to joint tenants one of whom is a person such as is mentioned in that subsection as it applies where a tenancy is assigned to any such person alone.
- (6) Where a tenancy of the holding or of a related holding was obtained by virtue of a direction of the Tribunal under section 53(7) below, that occasion shall for the purposes of subsection (1) above be deemed to be an occasion such as is mentioned in that subsection on which a tenancy of the holding or a related holding was obtained by virtue of a direction of the Tribunal under section 39 below.
- (7) Subsection (2) above shall, in relation to any time before 12th September 1984, have effect with the substitution for the words from “as a result” to “grant or assignment” of the words “the holding or a related holding became let under a new tenancy granted by the landlord, with the agreement of the outgoing tenant, to a person who, if the outgoing tenant had died immediately before the grant”.
- (8) Subsections (4) and (5) above shall not apply in relation to any tenancy if—
 - (a) it was granted before 12th September 1984,
 - (b) it was obtained by virtue of any direction given in any proceedings arising out of an application made under Part II of the ^{M9}Agriculture (Miscellaneous Provisions) Act 1976 before 12th September 1984, or
 - (c) it was granted (following such a direction) in circumstances within section 23(6) of the said Act of 1976.
- (9) In this section “tenant” has the same meaning as in section 34 above.

Status: Point in time view as at 01/10/1992.

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Marginal Citations

M9 1976 c. 55.

38 Other excluded cases.

- (1) Section 36(1) above (and section 41 below) shall not apply if on the date of death the tenancy is the subject of a valid notice to quit to which subsection (1) of section 26 above applies, being a notice given before that date in the case of which—
 - (a) the month allowed by that subsection for serving a counter-notice under that subsection expired before that date without such a counter-notice having been served, or
 - (b) the Tribunal consented before that date to its operation.
- (2) Section 36(1) (and section 41) shall not apply if on the date of death the tenancy is the subject of a valid notice to quit given before that date and falling within Case C or F.
- (3) Those sections shall not apply if on the date of death the tenancy is the subject of a valid notice to quit given before that date and falling within Case B, D or E, and
 - (a) the time within which the tenant could have required any question arising in connection with the notice to be determined by arbitration under this Act expired before that date without such a requirement having been made by the tenant, and the month allowed for serving any counter-notice in respect of the notice expired before that date without any such counter-notice having been served, or
 - (b) questions arising in connection with the notice were referred to arbitration under this Act before that date and were determined before that date in such a way as to uphold the operation of the notice and (where applicable) the month allowed for serving any counter-notice in respect of the notice expired before that date without a counter-notice having been served, or
 - (c) the Tribunal consented before that date to the operation of the notice.
- (4) Those sections shall not apply if the holding consists of land held by a smallholdings authority or the Minister for the purposes of smallholdings within the meaning of Part III of the ^{M10}Agriculture Act 1970 (whether the tenancy was granted before or after the commencement of the said Part III).
- (5) Those sections shall not apply if the tenancy was granted by trustees in whom the land is vested on charitable trusts the sole or principle object of which is the settlement or employment in agriculture of persons who have served in any of Her Majesty's naval, military or air forces.

Marginal Citations

M10 1970 c. 40.

39 Applications for tenancy of holding.

- (1) An application under this section by an eligible person to the Tribunal for a direction entitling him to a tenancy of the holding shall be made within the period of three months beginning with the day after the date of death.

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- (2) Where only one application is made under this section the Tribunal, if satisfied—
 - (a) that the applicant was an eligible person at the date of death, and
 - (b) that he has not subsequently ceased to be such a person,shall determine whether he is in their opinion a suitable person to become the tenant of the holding.
- (3) Where two or more applications are made under this section, then, subject to subsection (4) below, subsection (2) above shall apply to each of the applicants as if he were the only applicant.
- (4) If the applicants under this section include a person validly designated by the deceased in his will as the person he wished to succeed him as tenant of the holding, the Tribunal shall first make a determination under subsection (2) above as regards that person, and shall do so as regards the other applicant or each of the other applicants only if the Tribunal determine that the person so designated is not in their opinion a suitable person to become the tenant of the holding.
- (5) If under the preceding provisions of this section only one applicant is determined by the Tribunal to be in their opinion a suitable person to become the tenant of the holding, the Tribunal shall, subject to subsection (10) and section 44 below, give a direction entitling him to a tenancy of the holding.
- (6) If under the preceding provisions of this section each of two or more applicants is determined by the Tribunal to be in their opinion a suitable person to become the tenant of the holding, the Tribunal—
 - (a) shall, subject to subsection (9) below, determine which of those applicants is in their opinion the more or most suitable person to become the tenant of the holding, and
 - (b) shall, subject to subsection (10) and section 44 below, give a direction entitling that applicant to a tenancy of the holding.
- (7) Before making a determination under subsection (2) above in the case of any applicant the Tribunal shall afford the landlord an opportunity of stating his views on the suitability of that applicant.
- (8) In making a determination under subsection (2) above in the case of a particular applicant, or a determination under subsection (6) above as between two or more applicants, the Tribunal shall have regard to all relevant matters including—
 - (a) the extent to which the applicant or each of those applicants has been trained in, or has had practical experience of, agriculture,
 - (b) the age, physical health and financial standing of the applicant or each of those applicants, and
 - (c) the views (if any) stated by the landlord on the suitability of the applicant or any of those applicants.
- (9) Where subsection (6) above would apply apart from this subsection, the Tribunal may, with the consent of the landlord, give instead a direction specifying any two, any three or any four of the applicants within that subsection, and entitling the specified applicants to a joint tenancy of the holding.
- (10) Where the person or persons who would, subject to section 44 below, be entitled to a direction under this section entitling him or them to a tenancy or (as the case may be) to a joint tenancy of the holding agree to accept instead a tenancy or joint tenancy of

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a part of the holding, any direction given by the Tribunal under subsection (5), (6) or (9) above shall relate to that part of the holding only.

40 Provisions supplementary to section 39.

- (1) In section 39 above “will” includes codicil, and for the purposes of that section a person shall be taken to be validly designated by the deceased in his will as the person he wishes to succeed him as tenant of the holding if, but only if, a will of the deceased which is the subject of a grant of probate or administration—
 - (a) contains an effective specific bequest to that person of the deceased’s tenancy of the holding, or
 - (b) does not contain an effective specific bequest of that tenancy, but does contain a statement specifically mentioning the holding or the deceased’s tenancy of the holding and exclusively designating that person (in whatever words, and whether by name or description) as the person whom the deceased wishes to succeed him as tenant of the holding.
- (2) For the purposes of subsection (1) above a statement which is framed so as to designate as mentioned in paragraph (b) of that subsection different persons in different circumstances shall be taken to satisfy that paragraph if, in the events which have happened, the statement exclusively designates a particular person.
- (3) A direction under section 39 above given in favour of a person by reason of his being a person validly designated by the deceased as mentioned in subsection (4) of that section shall be valid even if the probate or administration by virtue of which he was such a person at the giving of the direction is subsequently revoked or varied.
- (4) For the purposes of this Part of this Act an application under section 39 above which is withdrawn or abandoned shall be treated as if it had never been made.
- (5) Provision shall be made by order under section 73(3) of the ^{M11}Agriculture Act 1947 (procedure of Agricultural Land Tribunals) for requiring any person making an application to the Tribunal under section 39 above or section 41 below to give notice of the application to the landlord of the agricultural holding to which the application relates and to take such steps as the order may require for bringing the application to the notice of other persons interested in the outcome of the application.

Marginal Citations

M11 1947 c. 48.

41 Application by not fully eligible person to be treated as eligible.

- (1) This section applies to any surviving close relative of the deceased who for some part of the seven years ending with the date of death engaged (whether full-time or part-time) in agricultural work on the holding, being a person in whose case—
 - (a) the condition specified in paragraph (b) of the definition of “eligible person” in section 36(3) above is satisfied, and
 - (b) the condition specified in paragraph (a) of that definition, though not fully satisfied, is satisfied to a material extent.

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- (2) A person to whom this section applies may within the period of three months beginning with the day after the date of death apply to the Tribunal for a determination that he is to be treated as an eligible person for the purposes of sections 36 to 48 of this Act.
- (3) If on an application under this section—
 - (a) the Tribunal are satisfied that the applicant is a person to whom this section applies, and
 - (b) it appears to the Tribunal that in all the circumstances it would be fair and reasonable for the applicant to be able to apply under section 39 above for a direction entitling him to a tenancy of the holding,the Tribunal shall determine that he is to be treated as an eligible person for the purposes of sections 36 to 48 of this Act, but shall otherwise dismiss the application.
- (4) In relation to a person in respect of whom the Tribunal have determined as mentioned in subsection (3) above sections 36 to 48 of this Act shall apply as if he were an eligible person.
- (5) A person to whom this section applies may make an application under section 39 above as well as an application under this section; and if the Tribunal determine as mentioned in subsection (3) above in respect of a person who has made an application under that section, the application under that section shall (without prejudice to subsection (4) above) be treated as made by an eligible person.
- (6) Without prejudice to the generality of paragraph (b) of subsection (1) above, cases where the condition mentioned in that paragraph might be less than fully satisfied include cases where the close relative's agricultural work on the holding fell short of providing him with his principal source of livelihood because the holding was too small.

42 Procedure where deceased held more than one holding.

- (1) Subsections (2) and (3) below shall have effect where at the expiry of the period of three months beginning with the day after the date of death of a tenant there are pending before the Tribunal separate applications made under section 39 above by any person, or (as the case may be) by each one of a number of persons, in respect of more than one agricultural holding held by the tenant at that date.
- (2) The applications referred to in subsection (1) above (together with, in each case, any associated application made under section 41 above) shall, subject to and in accordance with the provisions of any such order as is referred to in section 40(5) above, be heard and determined by the Tribunal in such order as may be decided—
 - (a) where the applications were made by one person, by that person,
 - (b) where the applications were made by two or more persons, by agreement between those persons or, in default of agreement, by the chairman of the Tribunal.
- (3) Any decision made by the chairman under subsection (2)(b) above shall be made according to the respective sizes of the holdings concerned so that any application in respect of any holding which is larger than any other of those holdings shall be heard and determined by the Tribunal before any application in respect of that other holding.

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43 Restriction on operation of notice to quit given by reason of death of tenant.

- (1) A notice to quit the holding given to the tenant of the holding by reason of the death of the deceased and falling within Case G shall not have effect unless—
 - (a) no application to become the tenant of the holding is made (or has already at the time of the notice to quit been made) under section 39 above within the period mentioned in subsection (1) of that section, or
 - (b) one or more such applications having been made within that period—
 - (i) none of the applicants is determined by the Tribunal to be in their opinion a suitable person to become the tenant of the holding, or
 - (ii) the Tribunal consent under section 44 below to the operation of the notice to quit in relation to the whole or part of the holding.
- (2) Where the Tribunal consent under section 44 below to the operation of a notice to quit to which subsection (1) above applies in relation to part only of the holding, the notice shall have effect accordingly as a notice to quit that part and shall not be invalid by reason that it relates only to part of the holding.

44 Opportunity for landlord to obtain Tribunal’s consent to operation of notice to quit.

- (1) Before giving a direction under section 39(5) or (6) above in a case where a notice to quit to which section 43(1) above applies has been given the Tribunal shall afford the landlord an opportunity of applying for their consent under this section to the operation of the notice.
- (2) Subject to subsection (5) below, section 27 above shall apply in relation to an application for, or the giving of, the Tribunal’s consent under this section as it applies in relation to an application for, or the giving of, their consent under section 26 above.
- (3) The Tribunal shall not entertain an application for their consent to the operation of a notice to quit to which section 43(1) above applies unless it is made in pursuance of subsection (1) above.
- (4) Subject to subsection (5) below, if the Tribunal give their consent on an application made in pursuance of subsection (1) above, they shall dismiss the application or each of the applications made under section 39 above.
- (5) Where in any case—
 - (a) a notice to quit to which section 43(1) above applies has been given, and
 - (b) section 39(10) above applies,
 the Tribunal shall give their consent to the operation of the notice to quit in relation to the part of the holding which would, in accordance with section 39(10), be excluded from any direction given by the Tribunal with respect to the holding under section 39; and subsections (2) and (4) above shall not apply.
- (6) If on an application made in pursuance of subsection (1) above the Tribunal give their consent to the operation of a notice to quit—
 - (a) within the period of three months ending with the date on which the notice purports to terminate the tenancy (“the original operative date”), or
 - (b) at any time after that date,
 the Tribunal may, on the application of the tenant, direct that the notice shall have effect from a later date (“the new operative date”).

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- (7) The new operative date, in the case of a notice to quit, must be a date not later than the end of the period of three months beginning with—
- (a) the original operative date, or
 - (b) the date on which the Tribunal give their consent to the operation of the notice, whichever last occurs.

45 Effect of direction under section 39.

- (1) A direction by the Tribunal—
- (a) under section 39(5) or (6) above entitling an applicant to a tenancy of the holding, or
 - (b) under section 39(9) above entitling two or more applicants to a joint tenancy of the holding,
- shall entitle him or them to a tenancy or joint tenancy of the holding as from the relevant time on the terms provided by sections 47 and 48 below; and accordingly such a tenancy or joint tenancy shall be deemed to be at that time granted by the landlord to, and accepted by, the person or persons so entitled.
- (2) Where the deceased's tenancy was not derived from the interest held by the landlord at the relevant time, the tenancy or joint tenancy deemed by virtue of subsection (1) above to be granted to, and accepted by, the person or persons so entitled shall be deemed to be granted by the person for the time being entitled to the interest from which the deceased's tenancy was derived, instead of by the landlord, with like effect as if the landlord's interest and any other supervening interest were not subsisting at the relevant time.
- (3) The reference in subsection (2) above to a supervening interest is a reference to any interest in the land comprised in the deceased's tenancy, being an interest created subsequently to that tenancy and derived (whether immediately or otherwise) from the interest from which that tenancy was derived and still subsisting at the relevant time.
- (4) Subsection (2) above shall not be read as affecting the rights and liabilities of the landlord under this Part of this Act.
- (5) Any tenancy of the holding inconsistent with the tenancy to which a direction such as is mentioned in subsection (1) above entitles the person or persons concerned shall, if it would not cease at the relevant time apart from this subsection, cease at that time as if terminated at that time by a valid notice to quit given by the tenant.
- (6) If the person or persons whom such a direction entitles to a tenancy or joint tenancy of the holding as from the relevant time becomes or become the tenant or joint tenants of the holding before that time under a tenancy granted by the landlord to, and accepted by, the person or persons concerned, the direction shall cease to have effect and section 48 below shall not apply.
- (7) The rights conferred on any person by such a direction (as distinct from his rights under his tenancy of the holding after he has become the tenant or joint tenant of the holding) shall not be capable of assignment.
- (8) The Lord Chancellor may by regulations provide for all or any of the provisions of sections 36 to 48 of this Act (except this subsection) to apply, with such exceptions, additions or other modifications as may be specified in the regulations, in cases where

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the person or any of the persons whom such a direction entitles to a tenancy or joint tenancy of the holding dies before the relevant time.

46 Interpretation of section 45.

- (1) Subject to subsection (2) below, in sections 45 above and 48 below “the relevant time”—
 - (a) except where the following paragraph applies, means the end of the twelve months immediately following the end of the year of tenancy in which the deceased died,
 - (b) if a notice to quit the holding was given to the tenant by reason of the death of the deceased, being a notice falling within Case G which, apart from section 43 above, would have terminated the tenancy at a time after the end of those twelve months, means that time.
- (2) Where the Tribunal give a direction under section 39(5), (6) or (9) above in relation to the holding at any time after the beginning of the period of three months ending with the relevant time apart from this subsection (“the original relevant time”), then—
 - (a) if the direction is given within that period, the Tribunal may, on the application of the tenant, specify in the direction, as the relevant time for the purposes of this section and section 48 below, such a time falling within the period of three months immediately following the original relevant time as they think fit,
 - (b) if the direction is given at any time after the original relevant time the Tribunal shall specify in the direction, as the relevant time for those purposes, such a time falling within the period of three months immediately following the date of the giving of the direction as they think fit,

and any time so specified shall be the relevant time for those purposes accordingly.
- (3) Where in accordance with section 39(10) above, the tenancy to which a direction under that section entitles the person or persons concerned is a tenancy of part of the deceased’s holding, references in sections 45 above and 48 below to the holding shall be read as references to the whole of the deceased’s holding or to the part of that holding to which the direction relates, as the context requires.

47 Terms of new tenancy unless varied by arbitration.

- (1) Subject to the provisions of this section and section 48 below, the terms of the tenancy or joint tenancy to which a direction under section 39(5), (6) or (9) above entitles the person or persons concerned shall be the same as the terms on which the holding was let immediately before it ceased to be let under the contract of tenancy under which it was let at the date of death.
- (2) If on the date of death the holding was held by the deceased under a tenancy for a fixed term of years, subsection (1) above shall have effect as if the tenancy under which the holding was let at the date of death had before that date become a tenancy from year to year on (with that exception) the terms of the actual tenancy as far as applicable.
- (3) If the terms of the tenancy to which such a direction entitles the person or persons concerned would not, apart from this subsection, include a covenant by the tenant or each of the tenants not to assign, sub-let or part with possession of the holding or any part of it without the landlord’s consent in writing, subsection (1) above shall have effect as if those terms included such a covenant.

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48 Arbitration on terms of new tenancy.

- (1) Where the Tribunal give a direction such as is mentioned in subsection (1) of section 45 above, the provisions of this section shall apply unless excluded by subsection (6) of that section.
- (2) In the following provisions of this section—
 - “the landlord” means the landlord of the holding;
 - “the prescribed period” means the period between the giving of the direction and—
 - (a) the end of the three months immediately following the relevant time, or
 - (b) the end of the three months immediately following the date of the giving of the direction,whichever last occurs;
 - “the relevant time” has the meaning given by subsection (1) or (as the case may require) subsection (2) of section 46 above;
 - “the tenant” means the person or persons entitled to a tenancy or joint tenancy of the holding by virtue of the direction;and references to the holding shall be read in accordance with section 46(3) above.
- (3) At any time within the prescribed period the landlord or the tenant may by notice in writing served on the other demand a reference to arbitration under this Act of one or both of the questions specified in subsection (4) below.
- (4) Those questions (referred to in the following provisions of this section as “question (a)” and “question (b)” respectively) are—
 - (a) what variations in the terms of the tenancy which the tenant is entitled to or has obtained by virtue of the direction are justifiable having regard to the circumstances of the holding and the length of time since the holding was first let on those terms;
 - (b) what rent should be or should have been properly payable in respect of the holding at the relevant time.
- (5) Where question (a) is referred to arbitration under subsection (3) above (with or without question (b)), the arbitrator—
 - (a) shall determine what variations, if any, in the terms mentioned in that question are justifiable as there mentioned, and
 - (b) without prejudice to the preceding paragraph, shall include in his award such provisions, if any, as are necessary—
 - (i) for entitling the landlord to recover from the tenant under those terms a sum equal to so much as is in all the circumstances fair and reasonable of the aggregate amount of the compensation mentioned in subsection (8)(a) below, and
 - (ii) for entitling the tenant to recover from the landlord under those terms a sum equal to so much as is in all the circumstances fair and reasonable of the aggregate amount of the compensation mentioned in subsection (8)(b) below,and shall accordingly, with effect from the relevant time, vary those terms in accordance with his determination or direct that they are to remain unchanged.
- (6) Where question (a) but not question (b) is referred to arbitration under subsection (3) above and it appears to the arbitrator that by reason of any provision included in

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- his award under subsection (5) above (not being a provision of a kind mentioned in paragraph (b) of that subsection) it is equitable that the rent of the holding should be varied, he may vary the rent accordingly with effect from the relevant time.
- (7) Where question (b) is referred to arbitration under subsection (3) above (with or without question (a)), the arbitrator shall determine what rent should be or should have been properly payable in respect of the holding at the relevant time and accordingly shall, with effect from that time, increase or reduce the rent which would otherwise be or have been payable or direct that it shall remain unchanged.
- (8) The compensation referred to in subsection (5)(b) above is—
- (a) the compensation paid or payable by the landlord, whether under this Act or under agreement or custom, on the termination of the deceased's tenancy of the holding,
 - (b) the compensation paid or payable to the landlord, whether under this Act or under agreement, on that termination in respect of any such dilapidation or deterioration of, or damage to, any part of the holding or anything in or on the holding as the tenant is or will be liable to make good under the terms of his tenancy.
- (9) For the purposes of this section the rent properly payable in respect of the holding shall be the rent at which the holding might reasonably be expected to be let by a prudent and willing landlord to a prudent and willing tenant, taking into account all relevant factors, including (in every case) the terms of the tenancy or prospective tenancy (including those relating to rent) and any such other matters as are specifically mentioned in subparagraph (1) of paragraph 1 of Schedule 2 to this Act (read with sub-paragraphs (2) and (3) of that paragraph).
- (10) On any reference under subsection (3) above the arbitrator may include in his award such further provisions, if any, relating to the tenancy which the tenant is entitled to or has obtained by virtue of the direction as may be agreed between the landlord and the tenant.
- (11) If the award of an arbitrator under this section is made before the relevant time, section 47(1) above shall have effect subject to, and in accordance with, the award.
- (12) If the award of an arbitrator under this section is made after the relevant time, it shall have effect as if the terms of the award were contained in an agreement in writing entered into by the landlord and the tenant and having effect as from the relevant time.

Succession on retirement of tenant

49 Application of sections 50 to 58.

- (1) Sections 50 to 58 below (except sections 53(11) and 55(7) which are of general application) shall apply where—
- (a) an agricultural holding is held under a tenancy from year to year, being a tenancy which falls within paragraph (a) or (b) of section 34(1) above, and
 - (b) a notice is given to the landlord by the tenant, or (in the case of a joint tenancy) by all the tenants, of the holding indicating (in whatever terms) that he or they wish a single eligible person named in the notice to succeed him or them as tenant of the holding as from a date specified in the notice, being a date on which the tenancy of the holding could have been determined by notice to quit

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given at the date of the notice and which falls not less than one year, but not more than two years, after the date of the notice.

- (2) In subsection (1) above “tenant” has the same meaning as in section 34 above.
- (3) In this section and sections 50 to 58 below (and in Part I of Schedule 6 to this Act as applied by section 50(4))—

“close relative” of the retiring tenant means—

- (a) the wife or husband of the retiring tenant;
- (b) a brother or sister of the retiring tenant;
- (c) a child of the retiring tenant;
- (d) any person (not within (b) or (c) above) who, in the case of any marriage to which the retiring tenant has been at any time a party, has been treated by the latter as a child of the family in relation to that marriage;

“eligible person” has the meaning given by section 50 below;

“the holding” means the holding in respect of which the retirement notice is given;

“the nominated successor” means the eligible person named in the retirement notice;

“related holding” means, in relation to the holding, any agricultural holding comprising the whole or a substantial part of the land comprised in the holding;

“the retirement date” means the date specified in the retirement notice as the date as from which the proposed succession is to take place;

“the retirement notice” means the notice mentioned in subsection (1) above;

“the retiring tenant” means the tenant by whom the retirement notice was given, or, where it was given by joint tenants (and the context so permits), any one of those tenants, and “the retiring tenants” accordingly means those tenants;

“the tenancy” means the tenancy of the holding.

50 Right to apply for new tenancy on retirement of tenant.

- (1) The eligible person named in the retirement notice may (subject to section 57(2) below) apply under section 53 below to the Tribunal for a direction entitling him to a tenancy of the holding unless excluded by section 51 below.
- (2) For the purposes of sections 49 to 58 of this Act, “eligible person” means (subject to the provisions of Part I of Schedule 6 to this Act as applied by subsection (4) below) a close relative of the retiring tenant in whose case the following conditions are satisfied—
- (a) in the last seven years his only or principal source of livelihood throughout a continuous period of not less than five years, or two or more discontinuous periods together amounting to not less than five years, derived from his agricultural work on the holding or on an agricultural unit of which the holding forms part, and
 - (b) he is not the occupier of a commercial unit of agricultural land.
- (3) In the case of the wife of the retiring tenant the reference in subsection (2)(a) above to the relative’s agricultural work shall be read as a reference to agricultural work carried out by either the wife or the retiring tenant (or both of them).

Status: Point in time view as at 01/10/1992.

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- (4) Part I of Schedule 6 to this Act shall apply for the purposes of supplementing subsection (2) above and making provision with respect to the assessment of the productive capacity of agricultural land for the purposes of paragraph (b) of that subsection, but subject to the modifications set out in Part II of that Schedule.

51 Excluded cases.

- (1) Sections 37 and 38 above shall apply for the purpose of excluding the application of section 50(1) above, but subject to the following modifications—
- (a) references to sections 36(1) and 41 above shall be read as references to section 50(1),
 - (b) references to the holding, a related holding and the tenancy shall be read in accordance with section 49(3) above, and
 - (c) references to the date of death shall be read as references to the date of the giving of the retirement notice.
- (2) Section 50(1) shall not apply if the retiring tenant has at any time given any other notice under section 49(1) above in respect of the holding or a related holding and an application to become the tenant of the holding or a related holding has been duly made by any person under section 53 below in respect of that notice.
- (3) Section 50(1) shall not apply if at the retirement date the retiring tenant will be under sixty-five, unless the retirement notice is given on the grounds that—
- (a) the retiring tenant or (where the notice is given by joint tenants) each of the retiring tenants is or will at the retirement date be incapable, by reason of bodily or mental infirmity, of conducting the farming of the holding in such a way as to secure the fulfilment of the responsibilities of the tenant to farm in accordance with the rules of good husbandry, and
 - (b) any such incapacity is likely to be permanent, and that fact is stated in the notice.
- (4) If on the date of the giving of the retirement notice the tenancy is the subject of a valid notice to quit given before that date and including a statement that it is given for any such reason as is referred to in Case B, D or E (not being a notice to quit falling within section 38(3) above as applied by subsection (1) above), section 50(1) shall not apply unless one of the events mentioned in subsection (5) below occurs.
- (5) Those events are as follows—
- (a) it is determined by arbitration under this Act that the notice to quit is ineffective for the purposes of section 26(2) above on account of the invalidity of any such reason as aforesaid, or
 - (b) where a counter-notice is duly served under section 28(2) above—
 - (i) the Tribunal withhold consent to the operation of the notice to quit, or
 - (ii) the period for making an application to the Tribunal for such consent expires without such an application having been made.
- (6) Where one of the events mentioned in subsection (5) above occurs the relevant period shall for the purposes of sections 53(1) and 54(2) below be the period of one month beginning with the date on which the arbitrator's award is delivered to the tenant, with the date of the Tribunal's decision to withhold consent, or with the expiry of the said period for making an application (as the case may be).

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52 Notices to quit restricting operation of section 53.

- (1) If the tenancy becomes the subject of a valid notice to quit given on or after the date of the giving of the retirement notice (but before the Tribunal have begun to hear any application by the nominated successor under section 53 below in respect of the retirement notice) and the notice to quit—
 - (a) falls within Case C and is founded on a certificate granted under paragraph 9 of Part II of Schedule 3 to this Act in accordance with an application made before that date, or
 - (b) falls within Case F,the retirement notice shall be of no effect and no proceedings, or (as the case may be) no further proceedings, shall be taken under this Part of this Act in respect of it.
- (2) If the tenancy becomes the subject of a valid notice to quit given on or after the date of the giving of the retirement notice (but before the Tribunal have begun to hear any application by the nominated successor under section 53 below in respect of the retirement notice) and the notice to quit—
 - (a) includes a statement that it is given for any such reason as is referred to in Case B, or
 - (b) includes a statement that it is given for any such reason as is referred to in Case D and is founded on a notice given for the purposes of that Case before that date,the retirement notice shall be of no effect and no proceedings, or (as the case may be) no further proceedings, shall be taken under this Part of this Act in respect of it unless one of the events mentioned in subsection (3) below occurs.
- (3) Those events are as follows—
 - (a) it is determined by arbitration under this Act that the notice to quit is ineffective for the purposes of section 26(2) above on account of the invalidity of any such reason as aforesaid, or
 - (b) where a counter-notice is duly served under section 28(2) above—
 - (i) the Tribunal withhold consent to the operation of the notice to quit, or
 - (ii) the period for making an application to the Tribunal for such consent expires without such an application having been made.
- (4) Where—
 - (a) one of the events mentioned in subsection (3) above occurs, and
 - (b) the notice to quit was given before the time when the relevant period for the purposes of sections 53(1) and 54(2) would expire apart from this subsection,that period shall for those purposes expire at the end of the period of one month beginning with the date on which the arbitrator's award is delivered to the tenant, with the date of the Tribunal's decision to withhold consent, or with the expiry of the said period for making an application (as the case may be).
- (5) For the purposes of this Part of this Act an application by the nominated successor under section 53 below which is invalidated by subsection (1) or (2) above shall be treated as if it had never been made.

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53 Application for tenancy of holding by nominated successor.

- (1) An application under this section by the nominated successor to the Tribunal for a direction entitling him to a tenancy of the holding shall be made within the relevant period.
- (2) In subsection (1) above “the relevant period” means (subject to sections 51(6) and 52(4) above) the period of one month beginning with the day after the date of the giving of the retirement notice.
- (3) Any such application—
 - (a) must be accompanied by a copy of the retirement notice, and
 - (b) must be signed by both the nominated successor and the retiring tenant or, where the notice was given by joint tenants, by each of the retiring tenants.
- (4) If the retirement notice includes a statement in accordance with section 51(3) above that it is given on the grounds mentioned in that provision, then, before the nominated successor’s application is further proceeded with under this section, the Tribunal must be satisfied—
 - (a) that the retiring tenant or (as the case may be) each of the retiring tenants either is or will at the retirement date be incapable, by reason of bodily or mental infirmity, of conducting the farming of the holding in such a way as to secure the fulfilment of the responsibilities of the tenant to farm in accordance with the rules of good husbandry, and
 - (b) that any such incapacity is likely to be permanent.
- (5) If the Tribunal are satisfied—
 - (a) that the nominated successor was an eligible person at the date of the giving of the retirement notice, and
 - (b) that he has not subsequently ceased to be such a person,
 the Tribunal shall determine whether he is in their opinion a suitable person to become the tenant of the holding.
- (6) Before making a determination under subsection (5) above the Tribunal shall afford the landlord an opportunity of stating his views on the suitability of the nominated successor; and in making any such determination the Tribunal shall have regard to all relevant matters, including—
 - (a) the extent to which the nominated successor has been trained in, or has had practical experience of, agriculture,
 - (b) his age, physical health and financial standing,
 - (c) the views (if any) stated by the landlord on his suitability.
- (7) If the nominated successor is determined under that subsection to be in their opinion a suitable person to become the tenant of the holding, the Tribunal shall, subject to subsection (8) below, give a direction entitling him to a tenancy of the holding.
- (8) The Tribunal shall not give such a direction if, on an application made by the landlord, it appears to the Tribunal that greater hardship would be caused by giving the direction than by refusing the nominated successor’s application under this section.
- (9) If the Tribunal dispose of the nominated successor’s application otherwise than by the giving of a direction under subsection (7) above the retirement notice shall be of no effect (but without prejudice to section 51(2) above).

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- (10) For the purposes of this Part of this Act, an application by the nominated successor under this section which is withdrawn or abandoned shall be treated as if it had never been made.
- (11) Provision shall be made by order under section 73(3) of the ^{M12}Agriculture Act 1947 (procedure of Agricultural Land Tribunals) for requiring any person making an application to the Tribunal for a direction under this section to give notice of the application to the landlord of the agricultural holding to which the application relates.

Marginal Citations

M12 1947 c. 48.

54 Restriction on operation of certain notices to quit.

- (1) This section applies to any notice to quit the holding or part of it given to the tenant of the holding (whether before or on or after the date of the giving of the retirement notice), not being a notice to quit falling within any provision of section 38 above (as applied by section 51(1) above) or section 51 or 52 above.
- (2) A notice to quit to which this section applies shall not, if it would otherwise be capable of so having effect, have effect—
- at any time during the relevant period, or
 - where an application to become the tenant of the holding is made by the nominated successor under section 53 above within that period, at any time before the application has been finally disposed of by the Tribunal or withdrawn or abandoned,
- and shall in any event not have effect if any such application is disposed of by the Tribunal by the giving of a direction under section 53(7) above.
- (3) In subsection (2) above “the relevant period” means (subject to sections 51(6) and 52(4) above) the period of one month beginning with the day after the date of the giving of the retirement notice.

55 Effect of direction under section 53.

- (1) A direction by the Tribunal under section 53(7) above entitling the nominated successor to a tenancy of the holding shall entitle him to a tenancy of the holding as from the relevant time on the terms provided by section 56 below; and accordingly such a tenancy shall be deemed to be at that time granted by the landlord to, and accepted by, the nominated successor.
- (2) Where the tenancy of the retiring tenant or (as the case may be) of the retiring tenants was not derived from the interest held by the landlord at the relevant time, the tenancy deemed by virtue of subsection (1) above to be granted to, and accepted by, the nominated successor shall be deemed to be granted by the person for the time being entitled to the interest from which the tenancy of the retiring tenant or tenants was derived, instead of by the landlord, with like effect as if the landlord’s interest and any other supervening interest were not subsisting at the relevant time.
- (3) The reference in subsection (2) above to a supervening interest is a reference to any interest in the land comprised in the tenancy of the retiring tenant or tenants, being

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an interest created subsequently to that tenancy and derived (whether immediately or otherwise) from the interest from which that tenancy was derived and still subsisting at the relevant time.

- (4) Subsection (2) above shall not be read as affecting the rights and liabilities of the landlord under this Part of this Act.
- (5) Any tenancy of the holding inconsistent with the tenancy to which the nominated successor is entitled by virtue of a direction under section 53(7) above shall, if it would not cease at the relevant time apart from this subsection, cease at that time as if terminated at that time by a valid notice to quit given by the tenant.
- (6) The rights conferred on any person by such a direction (as distinct from his rights under his tenancy of the holding after he has become the tenant) shall not be capable of assignment.
- (7) The Lord Chancellor may by regulations provide for all or any of the provisions of sections 37(6) and 50 to 58 of this Act (except this subsection) to apply, with such exceptions, additions or other modifications as may be specified in the regulations, in cases where the nominated successor, being entitled to a tenancy of the holding by virtue of such a direction, dies before the relevant time.
- (8) In this section “the relevant time” means the retirement date, except that—
 - (a) where such a direction is given within the period of three months ending with the retirement date, the Tribunal may, on the application of the tenant, specify in the direction, as the relevant time for the purposes of this section, such a time falling within the period of three months immediately following the retirement date as they think fit,
 - (b) where such a direction is given at any time after the retirement date, the Tribunal shall specify in the direction, as the relevant time for those purposes, such a time falling within the period of three months immediately following the date of the giving of the direction as they think fit,
 and any time so specified shall be the relevant time for those purposes accordingly.

56 Terms of new tenancy.

- (1) Subject to subsections (2) and (3) below, the terms of the tenancy to which a direction under section 53(7) above entitles the nominated successor shall be the same as the terms on which the holding was let immediately before it ceased to be let under the contract of tenancy under which it was let at the date of the giving of the retirement notice.
- (2) If the terms of the tenancy to which the nominated successor is entitled as mentioned in subsection (1) above would not, apart from this subsection, include a covenant by the tenant not to assign, sub-let or part with possession of the holding or any part of it without the landlord’s consent in writing, subsection (1) above shall have effect as if those terms included that covenant.
- (3) Where the Tribunal give a direction under section 53(7) above, subsections (3) to (12) of section 48 above shall have effect in relation to the tenancy which the nominated successor is entitled to or has obtained by virtue of the direction, but with the substitution—
 - (a) in subsection (8)(a) of a reference to the tenancy of the retiring tenant or (as the case may be) tenants for the reference to the deceased’s tenancy,

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- (b) in subsection (11) of a reference to subsection (1) above for the reference to section 47(1).
- (4) In those provisions, as extended by subsection (3) above—
 - “the landlord” means the landlord of the holding;
 - “the prescribed period” means the period between the giving of the direction and—
 - (a) the end of the three months immediately following the relevant time, or
 - (b) the end of the three months immediately following the date of the giving of the direction,whichever last occurs;
- “the relevant time” has the meaning given by section 55(8) above;
- “the tenant” means the nominated successor.

57 Effect of death of retiring tenant on succession to the holding.

- (1) Subsections (2) to (4) below apply where the retiring tenant, being the sole (or sole surviving) tenant of the holding, dies after giving the retirement notice.
- (2) If the tenant’s death occurs at a time when no application by the nominated successor has been made under section 53 above or such an application has not been finally disposed of by the Tribunal, the retirement notice shall be of no effect and no proceedings, or (as the case may be) no further proceedings, shall be taken under section 53 above in respect of it; and accordingly sections 36 to 48 above shall apply on the tenant’s death in relation to the holding.
- (3) If the tenant’s death occurs at a time when any such application has been so disposed of by the giving of a direction such as is mentioned in subsection (1) of section 55 above, but before the relevant time (within the meaning of that section), that section and section 56 above shall continue to have effect in relation to the holding; and accordingly sections 36 to 48 above shall not apply on the tenant’s death in relation to the holding.
- (4) If the tenant’s death occurs at a time when any such application has been so disposed of otherwise than by the giving of any such direction, sections 36 to 48 above shall apply on the tenant’s death in relation to the holding, but no application under section 39 (or 41) above may be made on that occasion by the nominated successor in relation to the holding.
- (5) Where the retirement notice was given by joint tenants and one of those tenants, not being the sole surviving tenant of the holding, dies, his death shall not affect any rights of the nominated successor under sections 50 to 56 above.

58 Effect of direction under section 53 on succession to other holdings.

Where—

- (a) the retiring tenant, being the sole (or sole surviving) tenant of the holding, dies, and
- (b) the nominated successor is for the time being entitled to a tenancy of the holding by virtue of a direction under section 53(7) above,

then for the purpose of determining whether, in relation to any other agricultural holding held by the retiring tenant at the date of his death, the nominated successor is a

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person in whose case the condition specified in paragraph (b) of section 36(3) above is satisfied, the nominated successor shall be deemed to be in occupation of the holding.

Interpretation

59 Interpretation of Part IV.

(1) In sections 36 to 48 above (and in Part I of Schedule 6 to this Act)—

“the date of death”,
 “the deceased”,
 “the holding”,
 “related holding”, and
 “the tenancy”,

have the meanings given by section 35(2) above; and in those sections “eligible person” has the meaning given by section 36(3) above.

(2) In sections 49 to 58 above (and in Part I of Schedule 6 to this Act as applied by section 50(4) above)—

“close relative” of the retiring tenant,
 “the holding”,
 “the nominated successor”,
 “related holding”,
 “the retirement date”,
 “the retirement notice”,
 “the retiring tenant”,
 “the retiring tenants”, and
 “the tenancy”,

have the meanings given by section 49(3) above; and in those sections “eligible person” has the meaning given by section 50(2) above.

PART V

COMPENSATION ON TERMINATION OF TENANCY

Modifications etc. (not altering text)

C8 Pts. III–VI (ss. 25–82) excluded by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 101

Compensation to tenant for disturbance

60 Right to, and measure of, compensation for disturbance.

(1) This section applies where the tenancy of an agricultural holding terminates by reason—

(a) of a notice to quit the holding given by the landlord, or

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- (b) of a counter-notice given by the tenant under section 32 above after the giving to him of such a notice to quit part of the holding as is mentioned in that section,
and the tenant quits the holding in consequence of the notice or counter-notice.
- (2) Subject to section 61 below, where this section applies there shall be payable by the landlord to the tenant by way of compensation for disturbance—
- (a) a sum computed under subsection (3) below (in this section referred to as “basic compensation”), and
- (b) a sum computed under subsection (4) below (in this section referred to as “additional compensation”).
- (3) The amount of basic compensation shall be—
- (a) an amount equal to one year’s rent of the holding at the rate at which rent was payable immediately before the termination of the tenancy, or
- (b) where the tenant has complied with the requirements of subsection (6) below, a greater amount equal to either the amount of the tenant’s actual loss or two years’ rent of the holding whichever is the smaller.
- (4) The amount of additional compensation shall be an amount equal to four years’ rent of the holding at the rate at which rent was payable immediately before the termination of the tenancy of the holding.
- (5) In subsection (3) above “the amount of the tenant’s actual loss” means the amount of the loss or expense directly attributable to the quitting of the holding which is unavoidably incurred by the tenant upon or in connection with the sale or removal of his household goods, implements of husbandry, fixtures, farm produce or farm stock on or used in connection with the holding, and includes any expenses reasonably incurred by him in the preparation of his claim for basic compensation (not being costs of an arbitration to determine any question arising under this section or section 61 below).
- (6) The requirements of this subsection are—
- (a) that the tenant has not less than one month before the termination of the tenancy given to the landlord notice in writing of his intention to make a claim for an amount under subsection (3)(b) above, and
- (b) that the tenant has, before their sale, given to the landlord a reasonable opportunity of making a valuation of any such goods, implements, fixtures, produce or stock as are mentioned in subsection (5) above.
- (7) Compensation payable under this section shall be in addition to any compensation to which the tenant may be entitled apart from this section.

61 Cases where compensation under section 60 is not payable.

- (1) Neither basic compensation nor additional compensation shall be payable under section 60 above where the operation of section 26(1) above in relation to the relevant notice is excluded by virtue of Case C, D, E, F or G.
- (2) Additional compensation shall not be so payable where the operation of section 26(1) above in relation to the relevant notice is excluded by virtue of Case A or H.
- (3) Except as provided by subsection (4) below, additional compensation shall not be payable under section 60 above where—

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- (a) the relevant notice contains a statement either that the carrying out of the purpose for which the landlord proposes to terminate the tenancy is desirable on any of the grounds mentioned in paragraphs (a) to (c) of section 27(3) above or that the landlord will suffer hardship unless the notice has effect, and
 - (b) if an application for consent in respect of the notice is made to the Tribunal in pursuance of section 26(1) above, the Tribunal consent to its operation and state in the reasons for their decision that they are satisfied as to any of the matters mentioned in paragraphs (a), (b), (c) and (e) of section 27(3).
- (4) Additional compensation shall be payable in a case falling within subsection (3) above where such an application as is mentioned in paragraph (b) of that subsection is made and—
- (a) the reasons given by the Tribunal also include the reason that they are satisfied as to the matter mentioned in paragraph (f) of section 27(3) above, or
 - (b) the Tribunal include in their decision a statement under subsection (5) below.
- (5) Where such an application as is mentioned in subsection (3)(b) above is made in respect of the relevant notice and the application specifies the matter mentioned in paragraph (b) of section 27(3) above (but not that mentioned in paragraph (f) of that subsection), the Tribunal shall if they are satisfied as to the matter mentioned in paragraph (b) but would, if it had been specified in the application, have been satisfied also as to the matter mentioned in paragraph (f) include a statement to that effect in their decision.
- (6) In this section—
- “basic compensation” and “additional compensation” have the same meanings as in section 60 above;
 - “the relevant notice” means the notice to quit the holding or part of the holding, as the case may be, mentioned in section 60(1) above.

62 Compensation on termination in pursuance of early resumption clause.

- (1) Where—
- (a) the tenancy of an agricultural holding terminates by reason of a notice to quit the holding given in pursuance of a provision in the contract of tenancy authorising the resumption of possession of the holding for some specified purpose other than the use of the land for agriculture, and
 - (b) the tenant quits the holding in consequence of the notice,
- compensation shall be payable by the landlord to the tenant, in addition to any other compensation so payable apart from this section in respect of the holding.
- (2) The amount of compensation payable under this section shall be equal to the value of the additional benefit (if any) which would have accrued to the tenant if the tenancy had, instead of being terminated as provided by the notice, been terminated by it on the expiration of twelve months from the end of the year of tenancy current when the notice was given.
- (3) For the purposes of subsection (2) above, the current year of a tenancy for a term of two years or more is the year beginning with such day in the period of twelve months ending with the date on which the notice is served as corresponds to the day on which the term would expire by the effluxion of time.

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63 Compensation for disturbance: supplementary provisions.

- (1) Where—
 - (a) the tenant of an agricultural holding has sub-let the holding, and
 - (b) the sub-tenancy terminates by operation of law in consequence of the termination of the tenancy by reason of any such notice or counter-notice as is referred to in section 60(1)(a) or (b) above,
section 60 shall apply if the sub-tenant quits the holding in consequence of the termination of the sub-tenancy as mentioned in paragraph (b) above as it applies where a tenant quits a holding in consequence of any such notice or counter-notice.
- (2) Where the tenant of an agricultural holding has sub-let the holding and in consequence of a notice to quit given by his landlord becomes liable to pay compensation under section 60 or 62 above to the sub-tenant, the tenant shall not be debarred from recovering compensation under that section by reason only that, owing to not being in occupation of the holding, on the termination of his tenancy he does not quit the holding.
- (3) Where the tenancy of an agricultural holding terminates by virtue of such a counter-notice as is mentioned in section 60(1)(b) above, and—
 - (a) the part of the holding affected by the notice to quit together with any part of the holding affected by any relevant previous notice rendered valid by section 31 above is less than one-fourth of the original holding, and
 - (b) the holding as proposed to be diminished is reasonably capable of being farmed as a separate holding,
compensation shall not be payable under section 60 above except in respect of the part of the holding to which the notice to quit relates.
- (4) In subsection (3) above “relevant previous notice” means any notice to quit given by the same person who gave the current notice to quit or, where that person is a person entitled to a severed part of the reversionary estate in the holding, by that person or by any other person so entitled.

Compensation to tenant for improvements and tenant-right matters

64 Tenant’s right to compensation for improvements.

- (1) The tenant of an agricultural holding shall, subject to the provisions of this Act, be entitled on the termination of the tenancy, on quitting the holding, to obtain from his landlord compensation for an improvement specified in Schedule 7 or Part I of Schedule 8 to this Act carried out on the holding by the tenant, being an improvement begun on or after 1st March 1948.
- (2) In this Act “relevant improvement” means an improvement falling within subsection (1) above.
- (3) Subsection (1) above shall have effect as well where the tenant entered into occupation of the holding before 1st March 1948 as where he entered into occupation on or after that date.
- (4) The provisions of Part I of Schedule 9 to this Act shall have effect with respect to the rights of the tenant of an agricultural holding with respect to compensation for

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improvements specified in Part II of that Schedule carried out on the holding, being improvements begun before 1st March 1948.

65 Tenant’s right to compensation for tenant-right matters.

- (1) The tenant of an agricultural holding shall, subject to the provisions of this Act, be entitled on the termination of the tenancy, on quitting the holding, to obtain from his landlord compensation for any such matter as is specified in Part II of Schedule 8 to this Act.
- (2) The tenant shall not be entitled to compensation under subsection (1) above for crops or produce grown, seeds sown, cultivations, fallows or acts of husbandry performed, or pasture laid down, in contravention of the terms of a written contract of tenancy unless—
 - (a) the growing of the crops or produce, the sowing of the seeds, the performance of the cultivations, fallows or acts of husbandry, or the laying down of the pasture was reasonably necessary in consequence of the giving of a direction under the ^{M13}Agriculture Act 1947, or
 - (b) the tenant shows that the term of the contract contravened was inconsistent with the fulfilment of his responsibilities to farm the holding in accordance with the rules of good husbandry.
- (3) Subject to paragraphs 6 and 7 of Schedule 12 to this Act, subsection (1) above shall apply to a tenant on whatever date he entered into occupation of the holding.

Marginal Citations

M13 1947 c. 48.

66 Measure of compensation.

- (1) The amount of any compensation under this Act for a relevant improvement specified in Schedule 7 to this Act shall be an amount equal to the increase attributable to the improvement in the value of the agricultural holding as a holding, having regard to the character and situation of the holding and the average requirements of tenants reasonably skilled in husbandry.
- (2) The amount of any compensation under this Act for a relevant improvement specified in Part I of Schedule 8 to this Act, or for any matter falling within Part II of that Schedule, shall be the value of the improvement or matter to an incoming tenant calculated in accordance with such method, if any, as may be prescribed.
- (3) Where the landlord and the tenant of an agricultural holding have entered into an agreement in writing whereby any benefit is given or allowed to the tenant in consideration of his carrying out an improvement specified in Part I of Schedule 8 to this Act, the benefit shall be taken into account in assessing compensation under this Act for the improvement.
- (4) Nothing in this Act shall prevent the substitution, in the case of matters falling within Part II of Schedule 8 to this Act, for the measure of compensation specified in subsection (2) above, of such measure of compensation, to be calculated according to such method, if any, as may be specified in a written contract of tenancy.

Status: Point in time view as at 01/10/1992.

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- (5) Where a grant out of money provided by Parliament or local government funds has been or will be made to the tenant of an agricultural holding in respect of a relevant improvement, the grant shall be taken into account in assessing compensation under this Act for the improvement.

67 Compensation for long-term improvements: consent required.

- (1) The tenant of an agricultural holding shall not be entitled to compensation for a relevant improvement specified in Schedule 7 to this Act unless the landlord has given his consent in writing to the carrying out of the improvement.
- (2) Any such consent may be given by the landlord unconditionally or upon such terms as to compensation or otherwise as may be agreed upon in writing between the landlord and the tenant; and the provisions of section 66(1) above shall have effect subject to the provisions of any such agreement as is made.
- (3) Where, in the case of an improvement specified in Part II of Schedule 7 to this Act, a tenant is aggrieved by the refusal of his landlord to give his consent under subsection (1) above, or is unwilling to agree to any terms subject to which the landlord is prepared to give his consent, the tenant may apply to the Tribunal for approval of the carrying out of the improvement, and the following provisions of this section shall have effect with respect to the application.
- (4) The Tribunal may approve the carrying out of the improvement, either unconditionally or upon such terms, whether as to reduction of the compensation which would be payable if the Tribunal approved unconditionally or as to other matters, as appear to them to be just, or may withhold their approval.
- (5) If the Tribunal grant their approval, the landlord may, within the prescribed period from receiving notification of the Tribunal's decision, serve notice in writing on the Tribunal and the tenant that the landlord proposes himself to carry out the improvement.
- (6) Where the Tribunal grant their approval, then if—
- (a) no notice is duly served by the landlord under subsection (5) above, or
 - (b) such a notice is duly served, but on an application made by the tenant the Tribunal determines that the landlord has failed to carry out the improvement within a reasonable time,
- the approval of the Tribunal shall have effect for the purposes of subsection (1) above as if it were the consent of the landlord, and any terms subject to which the approval was given shall have effect as if they were contained in an agreement in writing between the landlord and the tenant.
- (7) In subsection (5) above, “the prescribed period” means the period prescribed by the Lord Chancellor by order.

68 Improvements: special cases.

- (1) The tenant of an agricultural holding shall not be entitled to compensation for a relevant improvement specified in paragraph 1 of Schedule 8 to this Act unless, not later than one month before the improvement was begun, he gave notice in writing to the landlord of his intention to carry out the improvement.

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- (2) Where, on an application of the sub-tenant of an agricultural holding, the Tribunal have directed the immediate landlord of the sub-tenant to carry out work under section 11 above being work which constitutes an improvement specified in Schedule 7 to this Act—
- (a) section 67 above shall not apply as respects a claim by the immediate landlord against his superior landlord for compensation in respect of that work, and
 - (b) if, on the failure of the immediate landlord to comply with the direction of the Tribunal, the sub-tenant has himself carried out the work, sections 64 and 66 above shall have effect for the purposes of a claim for compensation by the immediate landlord against his superior landlord as if the work had been carried out by the immediate landlord and as if any grant made to the sub-tenant in respect of the work out of money provided by Parliament had been made to the immediate landlord.
- (3) Where the tenant of an agricultural holding has carried out on the holding an improvement specified in Schedule 7 to this Act in accordance with provision for the making of the improvement and for the tenant's being responsible for doing the work in a hill farming land improvement scheme approved under section 1 of the ^{M14}Hill Farming Act 1946, being provision included in the scheme at the instance or with the consent of the landlord—
- (a) the landlord shall be deemed to have consented as mentioned in subsection (1) of section 67 above,
 - (b) any agreement as to compensation or otherwise made between the landlord and the tenant in relation to the improvement shall have effect as if it had been such an agreement on terms as is mentioned in subsection (2) of that section, and
 - (c) the provisions of subsections (5) and (6) of that section as to the carrying out of improvements by the landlord shall not apply.
- (4) In assessing the amount of any compensation payable under custom or agreement to the tenant of an agricultural holding, if it is shown to the satisfaction of the person assessing the compensation that the cultivations in respect of which the compensation is claimed were wholly or in part the result of or incidental to work in respect of the cost of which an improvement grant has been paid under section 1 of the ^{M15}Hill Farming Act 1946, the amount of the grant shall be taken into account as if it had been a benefit allowed to the tenant in consideration of his executing the cultivations and the compensation shall be reduced to such extent as that person considers appropriate.
- (5) Where the tenant of an agricultural holding claims compensation in respect of works carried out in compliance with an improvement notice served, or an undertaking accepted, under Part VII of the ^{M16}Housing Act 1985 or Part VIII of the ^{M17}Housing Act 1974—
- (a) section 67 above shall not apply as respects the works, and
 - (b) if a person other than the tenant has contributed to the cost of carrying out the works, compensation in respect of the works as assessed under section 66 above shall be reduced proportionately.

Marginal Citations

- M14** 1946 c. 73.
M15 1946 c. 73.
M16 1985 c. 68.

Status: Point in time view as at 01/10/1992.

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M17 1974 c. 44.

69 Improvements: successive tenancies.

- (1) Where the tenant of an agricultural holding has remained in the holding during two or more tenancies, he shall not be deprived of his right to compensation under this Act in respect of relevant improvements by reason only that the improvements were made during a tenancy other than the one at the termination of which he quits the holding.
- (2) Where, on entering into occupation of an agricultural holding, the tenant—
 - (a) with the consent in writing of his landlord paid to an outgoing tenant any compensation payable by the landlord under or in pursuance of this Act (or the ^{M18}Agricultural Holdings Act 1948 or Part III of the ^{M19}Agriculture Act 1947) in respect of the whole or part of a relevant improvement, or
 - (b) has paid to the landlord the amount of any such compensation payable to an outgoing tenant,the tenant shall be entitled, on quitting the holding, to claim compensation in respect of the improvement or part in the same manner, if at all, as the outgoing tenant would have been entitled if the outgoing tenant had remained tenant of the holding and quit it at the time at which the tenant quits it.
- (3) Where, in a case not falling within subsection (2) above, the tenant, on entering into occupation of an agricultural holding, paid to his landlord any amount in respect of the whole or part of a relevant improvement, he shall, subject to any agreement in writing between the landlord and the tenant, be entitled on quitting the holding to claim compensation in respect of the improvement or part in the same manner, if at all, as he would have been entitled if he had been tenant of the holding at the time when the improvement was carried out and the improvement or part had been carried out by him.

Marginal Citations

M18 1948 c. 63.

M19 1947 c. 48.

Compensation to tenant for adoption of special system of farming

70 Compensation for special system of farming.

- (1) Where the tenant of an agricultural holding shows that, by the continuous adoption of a system of farming which has been more beneficial to the holding—
 - (a) than the system of farming required by the contract of tenancy, or
 - (b) in so far as no system of farming is so required, than the system of farming normally practised on comparable agricultural holdings,the value of the holding as a holding has been increased during the tenancy, having regard to the character and situation of the holding and the average requirements of tenants reasonably skilled in husbandry, the tenant shall be entitled, on quitting the holding on the termination of the tenancy, to obtain from the landlord compensation of an amount equal to the increase.
- (2) Compensation shall not be recoverable under this section unless—

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- (a) the tenant has, not later than one month before the termination of the tenancy, given to the landlord notice in writing of his intention to claim compensation under this section, and
 - (b) a record has been made under section 22 above of the condition of the fixed equipment on the holding and of the general condition of the holding.
- (3) Compensation shall not be recoverable under this section in respect of any matter arising before the date of the making of the record referred to in subsection (2) above or, if more than one such record has been made, the first of them.
- (4) In assessing the value of an agricultural holding for the purposes of this section due allowance shall be made for any compensation agreed or awarded to be paid to the tenant for an improvement falling within section 64(1) or (4) above or (subject to paragraph 8 of Schedule 12 to this Act) for any such matter as is specified in Part II of Schedule 8 to this Act, being an improvement or matter which has caused, or contributed to, the benefit.
- (5) Nothing in this section shall entitle a tenant to recover for an improvement falling within section 64(1) or (4) above or an improvement to which the provisions of this Act relating to market gardens apply or (subject to the said paragraph 8) for any such matter as is specified in Part II of Schedule 8 to this Act, any compensation which he is not entitled to recover apart from this section.

Compensation to landlord for deterioration of holding

71 Compensation for deterioration of particular parts of holding.

- (1) The landlord of an agricultural holding shall be entitled to recover from a tenant of the holding, on the tenant's quitting the holding on the termination of the tenancy, compensation in respect of the dilapidation or deterioration of, or damage to, any part of the holding or anything in or on the holding caused by non-fulfilment by the tenant of his responsibilities to farm in accordance with the rules of good husbandry.
- (2) Subject to subsection (5) below, the amount of the compensation payable under subsection (1) above shall be the cost, as at the date of the tenant's quitting the holding, of making good the dilapidation, deterioration or damage.
- (3) Notwithstanding anything in this Act, the landlord may, in lieu of claiming compensation under subsection (1) above, claim compensation in respect of matters specified in that subsection under and in accordance with a written contract of tenancy.
- (4) Where the landlord claims compensation in accordance with subsection (3) above—
- (a) compensation shall be so claimed only on the tenant's quitting the holding on the termination of the tenancy, and
 - (b) compensation shall not be claimed in respect of any one holding both under such a contract as is mentioned in that subsection and under subsection (1) above;
- and for the purposes of paragraph (b) above any claim under section 9(1) above shall be disregarded.
- (5) The amount of the compensation payable under subsection (1) above, or in accordance with subsection (3) above, shall in no case exceed the amount (if any) by which the value of the landlord's reversion in the holding is diminished owing to the dilapidation, deterioration or damage in question.

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72 Compensation for general deterioration of holding.

- (1) This section applies where, on the quitting of an agricultural holding by the tenant on the termination of the tenancy, the landlord shows that the value of the holding generally has been reduced by reason of any such dilapidation, deterioration or damage as is mentioned in section 71(1) above or otherwise by non-fulfilment by the tenant of his responsibilities to farm in accordance with the rules of good husbandry.
- (2) Where this section applies, the landlord shall be entitled to recover from the tenant compensation for the matter in question, in so far as the landlord is not compensated for it under subsection (1), or in accordance with subsection (3), of section 71 above.
- (3) The amount of the compensation payable under this section shall be equal to the decrease attributable to the matter in question in the value of the holding as a holding, having regard to the character and situation of the holding and the average requirements of tenants reasonably skilled in husbandry.
- (4) Compensation shall not be recoverable under this section unless the landlord has, not later than one month before the termination of the tenancy, given notice in writing to the tenant of his intention to claim such compensation.

73 Deterioration of holding: successive tenancies.

- (1) Where the tenant of an agricultural holding has remained on the holding during two or more tenancies his landlord shall not be deprived of his right to compensation under section 71 or 72 above in respect of any dilapidation, deterioration or damage by reason only that the tenancy during which an act or omission occurred which in whole or in part caused the dilapidation, deterioration or damage was a tenancy other than the tenancy at the termination of which the tenant quits the holding.

Supplementary provisions with respect to compensation

74 Termination of tenancy of part of holding.

- (1) Where the landlord of an agricultural holding resumes possession of part of the holding by virtue of section 31 or 43(2) above, the provisions of this Act with respect to compensation shall apply to that part of the holding as if it were a separate holding which the tenant had quitted in consequence of a notice to quit.
- (2) Where the landlord of an agricultural holding resumes possession of part of the holding in pursuance of a provision in that behalf contained in the contract of tenancy—
 - (a) the provisions of this Act with respect to compensation shall apply to that part of the holding as if it were a separate holding which the tenant had quitted in consequence of a notice to quit, but
 - (b) the arbitrator in assessing the amount of compensation payable to the tenant, except the amount of compensation under section 60(2)(b) above, shall take into consideration any benefit or relief allowed to the tenant under the contract of tenancy in respect of the land possession of which is resumed by the landlord.
- (3) Where a person entitled to a severed part of the reversionary estate in an agricultural holding resumes possession of part of the holding by virtue of a notice to quit that part given to the tenant by virtue of section 140 of the ^{M20}Law of Property Act 1925

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the provisions of this Act with respect to compensation shall apply to that part of the holding as if—

- (a) it were a separate holding which the tenant had quitted in consequence of the notice to quit, and
 - (b) the person resuming possession were the landlord of that separate holding.
- (4) References in this Act to the termination of the tenancy of, or (as the case may be) of part of, an agricultural holding include references to the resumption of possession of part of an agricultural holding in circumstances within subsection (1), (2) or (3) above.

Marginal Citations

M20 1925 c. 20.

75 Compensation where reversionary estate in holding is severed.

- (1) Where the reversionary estate in an agricultural holding is for the time being vested in more than one person in several parts, the tenant shall be entitled, on quitting the entire holding, to require that any compensation payable to him under this Act shall be determined as if the reversionary estate were not so severed.
- (2) Where subsection (1) above applies, the arbitrator shall, where necessary, apportion the amount awarded between the persons who for the purposes of this Act together constitute the landlord of the holding, and any additional costs of the award caused by the apportionment shall be directed by the arbitrator to be paid by those persons in such proportions as he shall determine.

76 Restrictions on compensation for things done in compliance with this Act.

- (1) Notwithstanding anything in this Act or any custom or agreement—
 - (a) no compensation shall be payable to the tenant of an agricultural holding in respect of anything done in pursuance of an order under section 14(4) above,
 - (b) in assessing compensation to an outgoing tenant of an agricultural holding where land has been ploughed up in pursuance of a direction under that section, the value per hectare of any tenant’s pasture comprised in the holding shall be taken not to exceed the average value per hectare of the whole of the tenant’s pasture comprised in the holding on the termination of the tenancy.
- (2) In subsection (1) above “tenant’s pasture” means pasture laid down at the expense of the tenant or paid for by the tenant on entering on the holding.
- (3) The tenant of an agricultural holding shall not be entitled to any compensation for a relevant improvement specified in Part I of Schedule 8 to this Act or (subject to paragraph 8 of Schedule 12 to this Act) for any such matter as is specified in Part II of Schedule 8 if it is an improvement or matter made or effected for the purposes of section 15(4) above.

77 No compensation under custom for improvement or tenant-right matter.

- (1) A landlord or tenant of an agricultural holding shall not be entitled under custom to any compensation from the other for any improvement, whether or not one in respect of the carrying out of which compensation is provided under this Act, or (subject to

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paragraph 8 of Schedule 12 to this Act) for any matter specified in Part II of Schedule 8 to this Act or otherwise.

- (2) Subsection (1) above shall not apply to compensation for an improvement of a kind specified in Schedule 7 or Part I of Schedule 8 to this Act begun before 1st March 1948.

78 Extent to which compensation recoverable under agreements.

- (1) Save as expressly provided in this Act, in any case for which apart from this section the provisions of this Act provide for compensation, a tenant or landlord shall be entitled to compensation in accordance with those provisions and not otherwise, and shall be so entitled notwithstanding any agreement to the contrary.
- (2) Where the landlord and tenant of an agricultural holding enter into an agreement in writing for any such variation of the terms of the contract of tenancy as could be made by direction or order under section 14 above, the agreement may provide for the exclusion of compensation in the same manner as under section 76(1) above.
- (3) Nothing in the provisions of this Act, apart from this section, shall be construed as disentitling a tenant or landlord to compensation in any case for which the said provisions do not provide for compensation, but (subject to paragraph 8 of Schedule 12 to this Act) a claim for compensation in any such case shall not be enforceable except under an agreement in writing.

PART VI

MARKET GARDENS AND SMALLHOLDINGS

Modifications etc. (not altering text)

C9 Pts. III–VI (ss. 25–82) excluded by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 101

79 Additional rights with respect to improvements for tenants of market gardens.

- (1) Subsections (2) to (5) below apply in the case of an agricultural holding in respect of which it is agreed by an agreement in writing that the holding shall be let or treated as a market garden; and where the land to which such agreement relates consists of part of an agricultural holding only, those subsections shall apply as if that part were a separate holding.
- (2) The provisions of this Act shall apply as if improvements of a kind specified in Schedule 10 to this Act begun on or after 1st March 1948 were included amongst the improvements specified in Part I of Schedule 8 to this Act and as if improvements begun before that day consisting of the erection or enlargement of buildings for the purpose of the trade or business of a market gardener were included amongst the improvements specified in Part II of Schedule 9 to this Act.
- (3) In section 10 above—
- (a) subsection (2)(c) shall not exclude that section from applying to any building erected by the tenant on the holding or acquired by him for the purposes of his trade or business as a market gardener, and

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- (b) subsection (2)(d) shall not exclude that section from applying to any building acquired by him for those purposes (whenever erected).
- (4) It shall be lawful for the tenant to remove all fruit trees and fruit bushes planted by him on the holding and not permanently set out, but if the tenant does not remove them before the termination of his tenancy they shall remain the property of the landlord and the tenant shall not be entitled to any compensation in respect of them.
- (5) The right of an incoming tenant to claim compensation in respect of the whole or part of an improvement which he has purchased may be exercised although his landlord has not consented in writing to the purchase.

80 Power of Tribunal to direct holding to be treated as market garden.

- (1) Where the tenant of an agricultural holding desires to make on the holding or any part of it an improvement specified in Schedule 10 to this Act and the landlord refuses, or fails within a reasonable time, to agree in writing that the holding or that part of it, as the case may be, shall be treated as a market garden, the tenant may apply to the Tribunal for a direction under subsection (2) below.
- (2) On such an application, the Tribunal may, after being satisfied that the holding or part is suitable for the purposes of market gardening, direct that subsections (2) to (5) of section 79 above shall, either in respect of all the improvements specified in the said Schedule 10 or in respect of some only of those improvements, apply to the holding or to that part of it; and the said subsections shall apply accordingly as respects any improvements executed after the date on which the direction is given.
- (3) Where a direction is given under subsection (2) above, then, if the tenancy is terminated by notice to quit given by the tenant or by reason of the tenant becoming insolvent, the tenant shall not be entitled to compensation in respect of improvements specified in the direction unless the conditions mentioned in subsection (4) below are satisfied.
- (4) Those conditions are that—
 - (a) the tenant not later than one month after the date on which the notice to quit is given or the date of the insolvency, as the case may be, or such later date as may be agreed, produces to the landlord an offer in writing by a substantial and otherwise suitable person (being an offer which is to hold good for a period of three months from the date on which it is produced)—
 - (i) to accept a tenancy of the holding from the termination of the existing tenancy, and on the terms and conditions of that tenancy so far as applicable, and,
 - (ii) subject as hereinafter provided, to pay to the outgoing tenant all compensation payable under this Act or under the contract of tenancy, and
 - (b) the landlord fails to accept the offer within three months after it has been produced.
- (5) If the landlord accepts any such offer as is mentioned in subsection (4) above, the incoming tenant shall pay to the landlord on demand all sums payable to him by the outgoing tenant on the termination of the tenancy in respect of rent or breach of contract or otherwise in respect of the holding, and any amount so paid may, subject to any agreement between the outgoing tenant and incoming tenant, be deducted by the incoming tenant from any compensation payable by him to the outgoing tenant.

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- (6) A direction under subsection (2) above may be given subject to such conditions (if any) for the protection of the landlord as the Tribunal think fit.
- (7) Without prejudice to the generality of subsection (6) above, where a direction relates to part only of an agricultural holding, it may, on the application of the landlord, be given subject to the condition that it shall become operative only in the event of the tenant's consenting to the division of the holding into two parts, of which one shall be that to which the direction relates, to be held at rents settled, in default of agreement, by arbitration under this Act, but otherwise on the same terms and conditions (so far as applicable) as those on which the holding is held.
- (8) A new tenancy created by the acceptance of a tenant in accordance with the provisions of this section on the terms and conditions of the existing tenancy shall be deemed for the purposes of Schedule 2 to this Act not to be a new tenancy.
- (9) For the purposes of subsection (3) above a person has become insolvent if any of the events mentioned in section 96(2)(a) or (b) below has occurred; and the reference in subsection (4) above to the date of the insolvency is a reference to the date of the occurrence of the event in question.

81 Agreements as to compensation relating to market gardens.

- (1) Where an agreement in writing secures to the tenant of an agricultural holding, for an improvement for which compensation is payable by virtue of section 79 or section 80 above, fair and reasonable compensation having regard to the circumstances existing when the agreement was made, the compensation so secured shall, as respects that improvement, be substituted for compensation under this Act.
- (2) The landlord and tenant of an agricultural holding who have agreed that the holding shall be let or treated as a market garden may by agreement in writing substitute, for the provisions as to compensation which would otherwise be applicable to the holding, the provisions as to compensation known as the "Evesham custom", and set out in subsections (3) to (5) of section 80 above.

82 Application of section 15 to smallholdings.

- (1) Section 15(1) above shall not apply to a tenancy of land let as a smallholding by a smallholdings authority or by the Minister in pursuance of a scheme, approved by the Minister for the purposes of this section, which—
 - (a) provides for the farming of such holdings on a co-operative basis,
 - (b) provides for the disposal of the produce of such holdings, or
 - (c) provides other centralised services for the use of the tenants of such holdings.
- (2) Where it appears to the Minister that the provisions of any scheme approved by him for the purposes of this section are not being satisfactorily carried out, he may, in accordance with subsection (3) below, withdraw his approval to the scheme.
- (3) Before withdrawing his approval to a scheme the Minister shall—
 - (a) serve a notice on the persons responsible for the management of the scheme specifying a date (not being earlier than one month after the service of the notice) and stating that on that date his approval to the scheme will cease to have effect and that, accordingly, section 15(1) will then apply to the tenancies granted in pursuance of the scheme,

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(b) give to those persons an opportunity of making representations to him; and, if the said notice is not withdrawn by the Minister before the said date, section 15(1) shall as from that date apply to the said tenancies.

PART VII

MISCELLANEOUS AND SUPPLEMENTAL

83 Settlement of claims on termination of tenancy.

- (1) Without prejudice to any other provision of this Act, any claim of whatever nature by the tenant or landlord of an agricultural holding against the other, being a claim which arises—
 - (a) under this Act or any custom or agreement, and
 - (b) on or out of the termination of the tenancy of the holding or part of it,
 shall, subject to the provisions of this section, be determined by arbitration under this Act.
- (2) No such claim as is mentioned in subsection (1) above shall be enforceable unless before the expiry of two months from the termination of the tenancy the claimant has served notice in writing on his landlord or tenant, as the case may be, of his intention to make the claim.
- (3) A notice under subsection (2) above shall specify the nature of the claim; but it shall be sufficient if the notice refers to the statutory provision, custom or term of an agreement under which the claim is made.
- (4) The landlord and tenant may, within the period of eight months from the termination of the tenancy, by agreement in writing settle any such claim as is mentioned in subsection (1) above.
- (5) Where by the expiry of the said period any such claim as is mentioned in subsection (1) above has not been settled, it shall be determined by arbitration under this Act.
- (6) Where a tenant lawfully remains in occupation of part of an agricultural holding after the termination of a tenancy, references in subsections (2) and (4) above to the termination of the tenancy shall, in the case of a claim relating to that part of the holding, be construed as references to the termination of the occupation.

84 Arbitrations.

- (1) Any matter which by or by virtue of this Act or regulations made under this Act is required to be determined by arbitration under this Act shall, notwithstanding any agreement (under a contract of tenancy or otherwise) providing for a different method of arbitration, be determined by the arbitration of a single arbitrator in accordance with the provisions of any order under this section, together with the provisions of Schedule 11 to this Act (as for the time being in force); and the ^{M21}Arbitration Act 1950 shall not apply to any such arbitration.
- (2) The Lord Chancellor may by order make provision as to the procedure to be followed in, or in connection with, proceedings on arbitrations under this Act.
- (3) An order under this section may in particular—

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- (a) provide for the provisions of Schedule 11 to this Act, exclusive of those mentioned in subsection (4) below, to have effect subject to such modifications as may be specified in the order;
 - (b) prescribe forms for proceedings on arbitrations under this Act which, if used, shall be sufficient;
 - (c) prescribe the form in which awards in such proceedings are to be made.
- (4) An order under this section shall not make provision inconsistent with the following provisions of Schedule 11 to this Act, namely paragraphs 1 to 6, 11 to 13, 14(2), 17, 19, 21, 22, 26 to 29 and 32.
- (5) In this section “modifications” includes additions, omissions and amendments.

Modifications etc. (not altering text)

C10 S. 84 applied by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), s. 13, Sch. 1 Pt. III paras. 10(3), **11(5)** and by S.I.s 1986/1611, reg. 16(1), 1987/908, art. 16(1)

Marginal Citations

M21 1950 c. 27.

85 Enforcement.

- (1) Subject to subsection (3) below, where a sum agreed or awarded under this Act to be paid for compensation, costs or otherwise by a landlord or tenant of an agricultural holding is not paid within fourteen days after the time when the payment becomes due, it shall be recoverable, if the county court so orders, as if it were payable under an order of that court.
- (2) Where a sum becomes due to a tenant of an agricultural holding in respect of compensation from the landlord, and the landlord fails to discharge his liability within the period of one month from the date on which the sum becomes due, the tenant shall be entitled to obtain from the Minister an order charging the holding with payment of the amount due.
- (3) Where the landlord of an agricultural holding is entitled to receive the rents and profits of the holding otherwise than for his own benefit (whether as trustee or in any other character)—
 - (a) he shall not be under any liability to pay any sum agreed or awarded under this Act to be paid to the tenant or awarded under this Act to be paid by the landlord, and it shall not be recoverable against him personally, but
 - (b) if he fails to pay any such sum to the tenant for one month after it becomes due, the tenant shall be entitled to obtain from the Minister an order charging the holding with payment of the sum.

Modifications etc. (not altering text)

C11 Ss. 85, 86(1)(3)(4) applied by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), s. 13, **Sch. 1 Pt. III para. 12**

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86 Power of landlord to obtain charge on holding.

- (1) Where the landlord of an agricultural holding—
- (a) has paid to the tenant of the holding an amount due to him under this Act, or under custom or agreement, or otherwise, in respect of compensation for an improvement falling within section 64(1) or (4) above, for any such matter as is specified in Part II of Schedule 8 to this Act or for disturbance, or
 - (b) has defrayed the cost of the execution by him, in pursuance of a notice served under section 67(5) above, of an improvement specified in Part II of Schedule 7 to this Act,
- he shall be entitled to obtain from the Minister an order charging the holding or any part of it with repayment of the amount of the compensation or the amount of the cost, as the case may be.
- (2) Where there falls to be determined by arbitration under this Act the amount of compensation for an improvement falling within 64(1) or (4) above or for any such matter as is specified in Part II of Schedule 8 to this Act payment of which entitles the landlord to obtain a charge under subsection (1) above, the arbitrator shall, at the request and cost of the landlord, certify—
- (a) the amount of the compensation, and
 - (b) the term for which the charge may properly be made having regard to the time at which each improvement or matter in respect of which compensation is awarded is to be deemed to be exhausted.
- (3) Where the landlord of an agricultural holding is entitled to receive the rents and profits of the holding otherwise than for his own benefit (whether as trustee or in any other character) he shall, either before or after paying to the tenant of the holding any sum agreed or awarded under this Act to be paid to the tenant for compensation or awarded under this Act to be paid by the landlord, be entitled to obtain from the Minister an order charging the holding with repayment of that sum.
- (4) The rights conferred by this section on a landlord of an agricultural holding to obtain an order charging land shall not be exercised by trustees for ecclesiastical or charitable purposes except with the approval in writing of the Charity Commissioners.

Modifications etc. (not altering text)

C12 Ss. 85, 86(1)(3)(4) applied by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), s. 13, [Sch. 1 Pt. III para. 12](#)

87 General provisions as to charges under this Act on holdings.

- (1) An order of the Minister under this Act charging an agricultural holding or any part of an agricultural holding with payment or repayment of a sum shall charge it, in addition, with payment of all costs properly incurred in obtaining the charge.
- (2) Any such order shall be made in favour of the person obtaining the charge and of his executors, administrators and assigns, and the order shall make such provision as to the payment of interest and the payment of the sum charged by instalments, and shall contain such directions for giving effect to the charge, as the Minister thinks fit.
- (3) In the case of a charge under section 86 above the sum charged shall be a charge on the holding or the part of the holding charged, as the case may be, for the landlord's interest in the holding and for all interests in the holding subsequent to that of the landlord, but

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so that in any case where the landlord's interest is an interest in a leasehold, the charge shall not extend beyond the interest of the landlord, his executors, administrators and assigns.

- (4) In the case of a charge under section 86 above where the landlord is not absolute owner of the holding for his own benefit, no instalment or interest shall be made payable after the time when the improvement in respect of which compensation is paid will, in the opinion of the Minister, have become exhausted.
- (5) Notwithstanding anything in any deed, will or other instrument to the contrary, where the estate or interest in an agricultural holding of the landlord is determinable or liable to forfeiture by reason of his creating or suffering any charge on it, that estate or interest shall not be determined or forfeited by reason that the tenant obtains a charge on the holding under section 85(2) above or that the landlord obtains a charge on the holding under section 86 above.
- (6) A charge created under section 85 above or section 74 of the ^{M22}Agricultural Holdings Act 1948 shall rank in priority to any other charge, however and whenever created or arising; and charges created under those sections shall, as between themselves, rank in the order of their creation.
- (7) Any company now or hereafter incorporated by Parliament, and having power to advance money for the improvement of land, may take an assignment of any charge created under section 85(2) or 86(1) above upon such terms and conditions as may be agreed upon between the company and the person entitled to the charge, and may assign any charge of which they have taken an assignment under this subsection.
- (8) Subsection (6) above shall bind the Crown.

Marginal Citations

M22 1948 c. 63.

88 Power of limited owners to give consents etc.

The landlord of an agricultural holding, whatever his estate or interest in it, may, for the purposes of this Act, give any consent, make any agreement or do or have done to him any other act which he might give, make, do or have done to him if he were owner in fee simple or, if his interest is an interest in a leasehold, were absolutely entitled to that leasehold.

89 Power of limited owners to apply capital for improvements.

- (1) Where under powers conferred by the ^{M23}Settled Land Act 1925 or the ^{M24}Law of Property Act 1925 capital money is applied in or about the execution of any improvement specified in Schedule 7 to this Act no provision shall be made for requiring the money or any part of it to be replaced out of income, and accordingly any such improvement shall be deemed to be an improvement authorised by Part I of Schedule 3 to the Settled Land Act 1925.
- (2) Where under powers conferred by the ^{M25}Universities and College Estates Act 1925 capital money is applied in payment for any improvement specified in Schedule 7 to this Act no provision shall be made for replacing the money out of income unless the Minister requires such provision to be made under section 26(5) of that Act or, in the

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case of a university or college to which section 2 of the ^{M26}Universities and College Estates Act 1964 applies, it appears to the university or college to be necessary to make such provision under the said section 26(5) as modified by Schedule I to the said Act of 1964.

Marginal Citations

- M23** 1925 c. 18.
- M24** 1925 c. 20.
- M25** 1925 c. 24.
- M26** 1964 c. 51.

90 Estimation of best rent for purposes of Acts and other instruments.

In estimating the best rent or reservation in the nature of rent of an agricultural holding for the purposes of any Act of Parliament, deed or other instrument, authorising a lease to be made provided that the best rent, or reservation in the nature of rent, is reserved, it shall not be necessary to take into account against the tenant any increase in the value of the holding arising from any improvements made or paid for by him.

91 Power of Minister to vary Schedules 7, 8 and 10.

- (1) The Minister may, after consultation with such bodies of persons as appear to him to represent the interests of landlords and tenants of agricultural holdings, by order vary the provisions of Schedules 7, 8 and 10 to this Act.
- (2) An order under this section may make such provision as to the operation of this Act in relation to tenancies current when the order takes effect as appears to the Minister to be just having regard to the variation of the said Schedules effected by the order.

92 Advisory committee on valuation of improvements and tenant-right matters.

- (1) The Minister shall appoint a committee to advise him as to the provisions to be included in regulations under section 66(2) above, consisting of such number of persons, having such qualifications, as the Minister thinks expedient, including persons appointed by the Minister as having experience in land agency, farming, estate management and the valuation of tenant-right.
- (2) The Minister may pay to the members of the committee such travelling and other allowances as he may with the consent of the Treasury determine.

93 Service of notices.

- (1) Any notice, request, demand or other instrument under this Act shall be duly given to or served on the person to or on whom it is to be given or served if it is delivered to him, or left at his proper address, or sent to him by post in a registered letter or by the recorded delivery service.
- (2) Any such instrument shall be duly given to or served on an incorporated company or body if it is given or served on the secretary or clerk of the company or body.
- (3) Any such instrument to be given to or served on a landlord or tenant shall, where an agent or servant is responsible for the control of the management or farming, as the

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case may be, of the agricultural holding, be duly given or served if given to or served on that agent or servant.

- (4) For the purposes of this section and of section 7 of the ^{M27}Interpretation Act 1978 (service by post), the proper address of any person to or on whom any such instrument is to be given or served shall, in the case of the secretary or clerk of an incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person in question.
- (5) Unless or until the tenant of an agricultural holding has received—
- (a) notice that the person who before that time was entitled to receive the rents and profits of the holding (“the original landlord”) has ceased to be so entitled, and
 - (b) notice of the name and address of the person who has become entitled to receive the rents and profits,

any notice or other document served upon or delivered to the original landlord by the tenant shall be deemed for the purposes of this Act to have been served upon or delivered to the landlord of the holding.

Marginal Citations

M27 1978 c. 30.

94 Orders and regulations.

- (1) Any power to make an order or regulations conferred on the Minister or the Lord Chancellor by any provision of this Act (except section 85 or 86) shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing an order or regulations made under any provision of this Act (except section 22(4) or 91 or paragraph 1(2) of Schedule 11) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No regulations shall be made under section 22(4) above or paragraph 1(2) of Schedule 11 to this Act unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (4) An order made under section 91 above shall be of no effect unless approved by a resolution of each House of Parliament.

95 Crown land.

- (1) The provisions of this Act, except section 11 above, shall apply to land belonging to Her Majesty in right of the Crown or the Duchy of Lancaster and to land belonging to the Duchy of Cornwall, subject in either case to such modifications as may be prescribed.
- (2) For the purposes of this Act—
 - (a) as respects land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other the proper officer or body having charge of the land for the time being, or, if there is no such officer or body, such person as Her Majesty may appoint in writing under the Royal Sign Manual, shall represent Her Majesty and shall be deemed to be the landlord,

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- (b) as respects land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy shall represent Her Majesty and shall be deemed to be the landlord,
- (c) as respects land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall or other the possessor for the time being of the Duchy of Cornwall appoints shall represent the Duke of Cornwall or other the possessor aforesaid, and shall be deemed to be the landlord and may do any act or thing which a landlord is authorised or required to do under this Act.
- (3) Without prejudice to subsection (1) above it is hereby declared that the provisions of this Act, except section 11 above, apply to land notwithstanding that the interest of the landlord or tenant is held on behalf of Her Majesty for the purposes of any government department; but those provisions shall, in their application to any land in which an interest is so held, have effect subject to such modifications as may be prescribed.
- (4) Any compensation payable under this Act by the Chancellor of the Duchy of Lancaster for long-term improvements shall, and any compensation so payable under section 60(2)(b) or 62 above may, be raised and paid as an expense incurred in improvement of land belonging to Her Majesty in right of the Duchy within section 25 of the ^{M28}Duchy of Lancaster Act 1817; and any compensation so payable under this Act for short-term improvements and tenant-right matters shall be paid out of the annual revenues of the Duchy.
- (5) Any compensation payable under this Act by the Duke of Cornwall or other the possessor for the time being of the Duchy of Cornwall for long-term improvements shall, and any compensation so payable under section 60(2)(b) or 62 above may, be paid and advances therefor made in the manner and subject to the provisions of section 8 of the ^{M29}Duchy of Cornwall Management Act 1863 with respect to improvements of land mentioned in that section.
- (6) Nothing in subsection (5) above shall be taken as prejudicing the operation of the ^{M30}Duchy of Cornwall Management Act 1982.
- (7) In this section—
- “long-term improvements” means relevant improvements specified in Schedule 7 to this Act, improvements falling within section 64(4) above and improvements specified in Schedule 10 to this Act;
- “short-term improvements and tenant-right matters” means relevant improvements specified in Part I of Schedule 8 to this Act and such matters as are specified in Part II of that Schedule.

Modifications etc. (not altering text)

C13 S. 95 extended by [Agriculture Act 1986 \(c. 49, SIF 2:1\)](#), s. 15(4)

Marginal Citations

M28 1817 c. 97.

M29 1863 c. 49.

M30 1982 c. 47.

96 Interpretation.

- (1) In this Act, unless the context otherwise requires—

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“agreement” includes an agreement arrived at by means of valuation or otherwise, and “agreed” has a corresponding meaning;

“agricultural holding” has the meaning given by section 1 above;

“agricultural land” has the meaning given by section 1 above;

“agricultural unit” means land which is an agricultural unit for the purposes of the ^{M31}Agriculture Act 1947;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

“building” includes any part of a building;

“Case A”, “Case B” (and so on) refer severally to the Cases set out and so named in Part I of Schedule 3 to this Act;

“contract of tenancy” has the meaning given by section 1 above;

“county court”, in relation to an agricultural holding, means the county court within the district in which the holding or the larger part of the holding is situated;

“fixed equipment” includes any building or structure affixed to land and any works on, in, over or under land, and also includes anything grown on land for a purpose other than use after severance from the land, consumption of the thing grown or of its produce, or amenity, and any reference to fixed equipment on land shall be construed accordingly;

“landlord” means any person for the time being entitled to receive the rents and profits of any land;

“livestock” includes any creature kept for the production of food, wool, skins, or fur or for the purpose of its use in the farming of land or the carrying on in relation to land of any agricultural activity;

“local government funds” means, in relation to any grant in respect of an improvement executed by the landlord or tenant of an agricultural holding, the funds of any body which, under or by virtue of any enactment, has power to make grants in respect of improvements of the description in question within any particular area (whether or not it is a local authority for that area);

“the Minister” means—

- (a) in relation to England, the Minister of Agriculture, Fisheries and Food, and
- (b) in relation to Wales, the Secretary of State;

“the model clauses” has the meaning given by section 7 above;

“pasture” includes meadow;

“prescribed” means prescribed by the Minister by regulations;

“relevant improvement” has the meaning given by section 64(2) above;

“tenant” means the holder of land under a contract of tenancy, and includes the executors, administrators, assigns, or trustee in bankruptcy of a tenant, or other person deriving title from a tenant;

“termination”, in relation to a tenancy, means the cesser of the contract of tenancy by reason of effluxion of time or from any other cause;

“the Tribunal” means an Agricultural Land Tribunal established under Part V of the ^{M32}Agriculture Act 1947.

- (2) For the purposes of this Act, a tenant is insolvent if—

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- (a) he has been adjudged bankrupt or has made a composition or arrangement with his creditors, or
 - (b) where the tenant is a body corporate, a winding-up order has been made with respect to it or a resolution for voluntary winding-up has been passed with respect to it (other than a resolution passed solely for the purposes of its reconstruction or of its amalgamation with another body corporate).
- (3) Sections 10 and 11 of the Agriculture Act 1947 (which specify the circumstances in which an owner of agricultural land is deemed for the purposes of that Act to fulfil his responsibilities to manage the land in accordance with the rules of good estate management and an occupier of such land is deemed for those purposes to fulfil his responsibilities to farm it in accordance with the rules of good husbandry) shall apply for the purposes of this Act.
- (4) References in this Act to the farming of land include references to the carrying on in relation to the land of any agricultural activity.
- (5) References in this Act to the use of land for agriculture include, in relation to land forming part of an agricultural unit, references to any use of the land in connection with the farming of the unit.
- (6) The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Act in respect of compensation.

Marginal Citations

M31 1947 c. 48.

M32 1947 c. 48.

97 Saving for other rights etc.

Subject to sections 15(5) and 83(1) above in particular, and to any other provision of this Act which otherwise expressly provides, nothing in this Act shall prejudicially affect any power, right or remedy of a landlord, tenant or other person vested in or exercisable by him by virtue of any other Act or law or under any custom of the country or otherwise, in respect of a contract of tenancy or other contract, or of any improvements, deteriorations, waste, emblements, tillages, away-going crops, fixtures, tax, rate, tithe rentcharge, rent or other thing.

98 Application of Act to old tenancies etc.

- (1) Subject to sections 4 and 34 above, to the provisions of Schedule 12 to this Act and to any other provision to the contrary, this Act applies in relation to tenancies of agricultural holdings whenever created, agreements whenever made and other things whenever done.
- (2) The provisions of this Act shall apply in relation to tenancies of agricultural holdings granted or agreed to be granted, agreements made and things done before the dates specified in paragraphs 1 to 5 and 10 of Schedule 12 to this Act (being dates no later than 1st March 1948) subject to the modifications there specified.

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- (3) Paragraphs 6 to 9 of Schedule 12 to this Act, which make provision with respect to compensation for tenant-right matters in relation to tenants of agricultural holdings who entered into occupation before the dates specified in those paragraphs (being dates no later than 31st December 1951), shall have effect.

99 Transitional provisions and savings.

- (1) Schedule 13 to this Act, which excepts from the operation of this Act certain cases current at the commencement of this Act and contains other transitional provisions and savings, shall have effect.
- (2) The re-enactment in paragraphs 6 to 8 of Schedule 12 to this Act of provisions contained in the ^{M33}Agricultural Holdings Act (Variation of Fourth Schedule) Order 1951 shall be without prejudice to the validity of those provisions; and any question as to the validity of any of those provisions shall be determined as if the re-enacting provisions of this Act were contained in a statutory instrument made under the powers under which the original provision was made.
- (3) Nothing in this Act (except paragraph 8 of Schedule 13) shall be taken as prejudicing the operation of sections 16 and 17 of the ^{M34}Interpretation Act 1978 (which relate to the effect of repeals).

Marginal Citations

M33 [S.I. 1951/2168.](#)

M34 [1978 c. 30.](#)

100 Consequential amendments.

Schedule 14 to this Act shall have effect.

101 Repeals and revocations.

- (1) The enactments specified in Part I of Schedule 15 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The instruments specified in Part II of Schedule 15 to this Act are hereby revoked to the extent specified in the third column of that Schedule.

102 Citation, commencement and extent.

- (1) This Act may be cited as the Agricultural Holdings Act 1986.
- (2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.
- (3) Subject to subsection (4) below, this Act extends to England and Wales only.
- (4) Subject to subsection (5) below and to paragraph 26(6) of Schedule 14 to this Act, the amendment or repeal by this Act of an enactment which extends to Scotland or Northern Ireland shall also extend there.

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- (5) Subsection (4) above does not apply to the amendment or repeal by this Act of section 9 of the ^{M35}Hill Farming Act 1946, section 48(4) of the ^{M36}Agriculture Act 1967 or an enactment contained in the ^{M37}Agriculture (Miscellaneous Provisions) Act 1968.

Marginal Citations

M35 1946 c. 73.

M36 1967 c. 22.

M37 1968 c. 34.

Status:

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