

Status: Point in time view as at 11/11/2020.

Changes to legislation: There are currently no known outstanding effects for the Agricultural Holdings Act 1986, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Section 26.

CASES WHERE CONSENT OF TRIBUNAL TO OPERATION OF NOTICE TO QUIT IS NOT REQUIRED

PART I

THE CASES

CASE A

The holding is let as a smallholding by a smallholdings authority or the Minister in pursuance of Part III of the ^{M1}Agriculture Act 1970 and was so let on or after 12th September 1984, and

- (a) the tenant has attained [^{F1}the age of sixty-five][^{F1}the tenant's pensionable age (as specified from time to time in Part 1 of Schedule 4 to the Pensions Act 1995)], and
- (b) if the result of the notice to quit taking effect would be to deprive the tenant of living accommodation occupied by him under the tenancy, suitable alternative accommodation is available for him, or will be available for him when the notice takes effect, and
- (c) the instrument under which the tenancy was granted contains an acknowledgment signed by the tenant that the tenancy is subject to the provisions of this Case (or to those of Case I in section 2(3) of the ^{M2}Agricultural Holdings (Notices to Quit) Act 1977),

and it is stated in the notice to quit that it is given by reason of the said matter.

Textual Amendments

F1 Words in Sch. 3 Pt. 1 substituted (11.11.2020 for specified purposes, 11.1.2021 in so far as not already in force) by [Agriculture Act 2020 \(c. 21\), s. 57\(1\)\(b\)\(c\)\(6\)](#), [Sch. 3 para. 9](#)

Marginal Citations

M1 1970 c. 40.
M2 1977 c. 12.

Textual Amendments

F1 Words in Sch. 3 Pt. 1 substituted (11.11.2020 for specified purposes, 11.1.2021 in so far as not already in force) by [Agriculture Act 2020 \(c. 21\), s. 57\(1\)\(b\)\(c\)\(6\)](#), [Sch. 3 para. 9](#)

Marginal Citations

M1 1970 c. 40.

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M2 1977 c. 12.

[^{F2} CASE B

Textual Amendments

F2 Sch. 3 Pt. 1 Case B substituted by [Agricultural Holdings \(Amendment\) Act 1990 \(c. 15, SIF 2:3\)](#), **ss. 1(1)(2), 2**

The notice to quit is given on the ground that the land is required for a use, other than for agriculture—

- (a) for which permission has been granted on an application made under the enactments relating to town and country planning,
- (b) for which permission under those enactments is granted by a general development order by reason only of the fact that the use is authorised by—
 - (i) a private or local Act,
 - (ii) an order approved by both Houses of Parliament, or
 - (iii) an order made under section 14 or 16 of the Harbours Act 1964,
- (c) for which any provision that—
 - (i) is contained in an Act, but
 - (ii) does not form part of the enactments relating to town and country planning,
 deems permission under those enactments to have been granted,
- (d) which any such provision deems not to constitute development for the purposes of those enactments, or
- (e) for which permission is not required under the enactments relating to town and country planning by reason only of Crown immunity,

and that fact is stated in the notice.]

CASE C

Not more than six months before the giving of the notice to quit, the Tribunal granted a certificate under paragraph 9 of Part II of this Schedule that the tenant of the holding was not fulfilling his responsibilities to farm in accordance with the rules of good husbandry, and that fact is stated in the notice.

CASE D

At the date of the giving of the notice to quit the tenant had failed to comply with a notice in writing served on him by the landlord, being either—

- (a) a notice requiring him within two months from the service of the notice to pay any rent due in respect of the agricultural holding to which the notice to quit relates, or
- (b) a notice requiring him within a reasonable period specified in the notice to remedy any breach by the tenant that was capable of being remedied of any term or condition of

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his tenancy which was not inconsistent with his responsibilities to farm in accordance with the rules of good husbandry,
and it is stated in the notice to quit that it is given by reason of the said matter.

CASE E

At the date of the giving of the notice to quit the interest of the landlord in the agricultural holding had been materially prejudiced by the commission by the tenant of a breach, which was not capable of being remedied, of any term or condition of the tenancy that was not inconsistent with the tenant's responsibilities to farm in accordance with the rules of good husbandry, and it is stated in the notice that it is given by reason of the said matter.

CASE F

At the date of the giving of the notice to quit the tenant was a person who had become insolvent, and it is stated in the notice that it is given by reason of the said matter.

CASE G

The notice to quit is given—

- (a) following the death of a person who immediately before his death was the sole (or sole surviving) tenant under the contract of tenancy, and
- (b) not later than the end of the period of three months beginning with the date of any relevant notice,

and it is stated in the notice to quit that it is given by reason of that person's death.

CASE H

The notice to quit is given by the Minister and—

- (a) the Minister certifies in writing that the notice to quit is given in order to enable him to use or dispose of the land for the purpose of effecting any amalgamation (within the meaning of section 26(1) of the ^{M3}Agriculture Act 1967) or the reshaping of any agricultural unit, and
- (b) the instrument under which the tenancy was granted contains an acknowledgement signed by the tenant that the tenancy is subject to the provisions of this Case (or to those of Case H in section 2(3) of the ^{M4}Agricultural Holdings (Notices to Quit) Act 1977 or of section 29 of the ^{M5}Agriculture Act 1967).

Marginal Citations

M3 1967 c. 22.

M4 1977 c. 12.

M5 1967 c. 22.

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Marginal Citations

- M3** 1967 c. 22.
M4 1977 c. 12.
M5 1967 c. 22.

PART II

SUPPLEMENTARY PROVISIONS APPLICABLE TO CASES A, B, C, D, E AND G

Provisions applicable to Case A

- 1 Paragraphs 2 to 7 below have effect for determining whether, for the purposes of paragraph (b) of Case A, suitable alternative accommodation is or will be available for the tenant.
- 2 For the purposes of paragraph (b) of Case A, a certificate of the housing authority for the district in which the living accommodation in question is situated, certifying that the authority will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date.
- 3 Where no such certificate as is mentioned in paragraph 2 above has been issued, accommodation shall be deemed to be suitable for the purposes of paragraph (b) of Case A if it consists of either—
- (a) premises which are to be let as a separate dwelling such that they will then be let on a protected tenancy (within the meaning of the ^{M6}Rent Act 1977), or
 - (b) premises to be let as a separate dwelling on terms which will afford to the tenant security of tenure reasonably equivalent to the security afforded by Part VII of that Act in the case of a protected tenancy, [^{F3}or
 - (c) premises which are to be let as a separate dwelling such that they will then be let on an assured tenancy which is not an assured shorthold tenancy (construing those terms in accordance with Part I of the Housing Act 1988), or
 - (d) premises to be let as a separate dwelling on terms which will afford to the tenant security of tenure reasonably equivalent to the security afforded by Chapter I of Part I of that Act in the case of an assured tenancy which is not an assured shorthold tenancy.]

and the accommodation fulfils the conditions in paragraph 4 below.

- [^{F4}(2) Any reference in sub-paragraph (1) above to an assured tenancy does not include a reference to a tenancy in respect of which possession might be recovered on any of Grounds 1 to 5 in Schedule 2 to the Housing Act 1988.]

Textual Amendments

- F3** Sch. 3 Pt. II para. 3(c)(d) and the word “or” preceding inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140, [Sch. 17 para. 69\(1\)](#)
- F4** Sch. 3 Pt.II para.3(2) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140, [Sch. 17 para. 69\(2\)](#)

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Marginal Citations

M6 1977 c. 42.

- 4 (1) The accommodation must be reasonably suitable to the needs of the tenant's family as regards proximity to place of work and either—
- (a) similar as regards rental and extent to the accommodation afforded by dwelling-houses provided in the neighbourhood by any housing authority for persons whose needs as regards extent are similar to those of the tenant and his family, or
 - (b) reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character.
- (2) For the purposes of sub-paragraph (1)(a) above, a certificate of a housing authority stating—
- (a) the extent of the accommodation afforded by dwelling-houses provided by the authority to meet the needs of tenants with families of such number as may be specified in the certificate, and
 - (b) the amount of the rent charged by the authority for dwelling-houses affording accommodation of that extent,
- shall be conclusive evidence of the facts so stated.
- (3) If any furniture was provided by the landlord for use under the tenancy in question, furniture must be provided for use in the alternative accommodation which is either—
- (a) similar to that so provided, or
 - (b) reasonably suitable to the needs of the tenant and his family.
- 5 Accommodation shall not be deemed to be suitable to the needs of the tenant and his family if the result of their occupation of the accommodation would be that it would be an overcrowded dwelling-house for the purposes of Part X of the ^{M7}Housing Act 1985.

Marginal Citations

M7 1985 c. 68.

- 6 Any document purporting—
- (a) to be a certificate of a housing authority named in it issued for the purposes of this Schedule, and
 - (b) to be signed by the proper officer of the authority,
- shall be received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.
- 7 (1) In paragraphs 2, 4 and 6 above “housing authority”, and “district” in relation to such an authority, mean a local housing authority and their district within the meaning of the Housing Act 1985.
- (2) For the purposes of paragraphs 4 and 5 a dwelling-house may be a house or part of a house.

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Provisions applicable to Case B

- 8 (1) For the purposes of Case B no account shall be taken of any permission granted as mentioned in paragraph (a) of that Case if the permission—
- ^{F5}(a)
- (b) relates to the working of coal by opencast operations, and
- (c) was granted subject to a restoration condition and to an aftercare condition in which the use specified is use for agriculture or use for forestry.
- (2) In this paragraph “restoration condition” and “aftercare condition” have the meaning given by [^{F6}section 336(1) of the Town and Country Planning Act 1990].

Textual Amendments

- F5** Sch. 3 Pt. II para. 8(1)(a) repealed (31.10.1994) by 1994 c. 21, s. 67, Sch. 9 para. 35, **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**.
- F6** Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 72**

- [^{F7}8A (1) For the purposes of Case B—
- (a) “general development order” means an order under section 59 of the Town and Country Planning Act 1990 which is made as a general order, and
- (b) “the enactments relating to town and country planning” means the planning Acts (as defined in section 336(1) of the Town and Country Planning Act 1990) and any enactment amending or replacing any of those Acts.
- (2) In relation to any time before the commencement of Part III of the Town and Country Planning Act 1990, sub-paragraph (1) above shall have effect as if—
- (a) in paragraph (a), for “59” there were substituted “24” and for “1990” there were substituted “1971”, and
- (b) in paragraph (b), for the words from “planning Acts” onwards there were substituted “repealed enactments (as defined in section 1(1) of the Planning (Consequential Provisions) Act 1990)”.]

Textual Amendments

- F7** Sch. 3 Pt. II para. 8A inserted by **Agricultural Holdings (Amendment) Act 1990** (c. 15, SIF 2:3), **ss. 1(1)(3), 2**

Provisions applicable to Case C

- 9 (1) For the purposes of Case C the landlord of an agricultural holding may apply to the Tribunal for a certificate that the tenant is not fulfilling his responsibilities to farm in accordance with the rules of good husbandry; and the Tribunal, if satisfied that the tenant is not fulfilling his said responsibilities, shall grant such a certificate.
- (2) In determining whether to grant a certificate under this paragraph the Tribunal shall disregard any practice adopted by the tenant in pursuance of any provision of the contract of tenancy, or of any other agreement with the landlord, which indicates (in whatever terms) that its object is the furtherance of one or more of the following purposes, namely—

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- (a) the conservation of flora or fauna or of geological or physiographical features of special interest;
- (b) the protection of buildings or other objects of archaeological, architectural or historic interest;
- (c) the conservation or enhancement of the natural beauty or amenity of the countryside or the promotion of its enjoyment by the public.

[^{F8}(3) In determining whether to grant a certificate under this paragraph, the tribunal shall disregard any practice adopted by the tenant in compliance with any obligation accepted by or imposed on the tenant under [^{F9}section 94 or 95 of the Water Resources Act 1991]]

Textual Amendments

- F8** Sch. 3 Pt. II para. 9(3) inserted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2) (4), 189(4)–(10), 190, 193(1), Sch. 25 para. 75(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F9** Sch. 3 Pt. II para. 9: words substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 43**

Provisions applicable to Case D

- 10 (1) For the purposes of Case D—
- (a) a notice such as that mentioned in paragraph (a) or (b) of that Case must be in the prescribed form,
 - (b) where such a notice in the prescribed form requires the doing of any work of repair, maintenance or replacement, any further notice requiring the doing of any such work which is served on the tenant less than twelve months after the earlier notice shall be disregarded unless the earlier notice was withdrawn with his agreement in writing,
 - (c) a period of less than six months shall not be treated as a reasonable period within which to do any such work, and
 - (d) any provision such as is mentioned in paragraph 9(2) above shall (if it would not otherwise be so regarded) be regarded as a term or condition of the tenancy which is not inconsistent with the tenant's responsibilities to farm in accordance with the rules of good husbandry.
- (2) Different forms may be prescribed for the purpose of paragraph (b) of Case D in relation to different circumstances.
- [^{F10}(3) For the purposes of that Case compliance with any obligation accepted by or imposed on the tenant under [^{F11}section 94 or 95 of the Water Resources Act 1991] shall not be capable of constituting a breach by the tenant of the terms or conditions of his tenancy.]

Textual Amendments

- F10** Sch. 3 Pt. II paras.10(3), 11(3) inserted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 25 para. 75(b), Sch. 26 paras. 57(6), **58**
- F11** Sch. 3 Pt. II para. 10: words substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para.43**

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Provisions applicable to Case E

- 11 (1) Where—
- (a) the landlord is a smallholdings authority, or
 - (b) the landlord is the Minister and the holding is on land held by him for the purposes of smallholdings,
- then, in considering whether the interest of the landlord has been materially prejudiced as mentioned in Case E, regard shall be had to the effect of the breach in question not only on the holding itself but also on the carrying out of the arrangements made by the smallholdings authority or the Minister (as the case may be) for the letting and conduct of smallholdings.
- (2) For the purposes of Case E any provision such as is mentioned in paragraph 9(2) above shall (if it would not otherwise be so regarded) be regarded as a term or condition of the tenancy which is not inconsistent with the tenant's responsibilities to farm in accordance with the rules of good husbandry.
- [^{F12}(3) For the purposes of that Case compliance with any obligation accepted by or imposed on the tenant under [^{F13}section 94 or 95 of the Water Resources Act 1991] shall not be capable of constituting a breach by the tenant of the terms or conditions of his tenancy.]

Textual Amendments

- F12** Sch. 3 Pt. II paras.10(3), 11(3) inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 25 para. 75(b), Sch. 26 paras. 57(6), **58**
- F13** Sch. 3 Pt. II para. 11: words substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 43**

Provisions applicable to Case G

- 12 For the purposes of Case G—
- (a) “tenant” does not include an executor, administrator, trustee in bankruptcy or other person deriving title from a tenant by operation of law, and
 - (b) the reference to the date of any relevant notice shall be construed as a reference—
 - (i) to the date on which a notice in writing was served on the landlord by or on behalf of an executor or administrator of the tenant's estate informing the landlord of the tenant's death or the date on which the landlord was given notice by virtue of section 40(5) of this Act of any application with respect to the holding under section 39 or 41, or
 - (ii) where both of those events occur, to the date of whichever of them occurs first.

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