



Agricultural Holdings Act 1986

1986 CHAPTER 5

PART IV

SUCCESSION ON DEATH OR RETIREMENT OF TENANT

Succession on death of tenant

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.
- (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.

*Changes to legislation: There are currently no known outstanding effects for the
Agricultural Holdings Act 1986, Section 39. (See end of Document for details)*

- (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.
- [^{F1}(8) For the purposes of this section, a person's suitability to become the tenant of a holding is to be determined (having regard to any views stated by the landlord) in accordance with criteria specified in regulations made by—
- (a) the Secretary of State, in relation to England, and
 - (b) the Welsh Ministers, in relation to Wales.
- (8A) The criteria referred to in subsection (8) must relate to the person's likely capacity to farm the holding commercially to high standards of efficient production and care for the environment, and may in particular include—
- (a) criteria relating to the person's experience, training or skills in agriculture or business management;
 - (b) criteria relating to the person's physical health, financial standing or character;
 - (c) criteria relating to the character or condition of the holding or the terms of the tenancy.]

(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 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.

Textual Amendments

- F1** S. 39(8)(8A) substituted for s. 39(8) (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. 17](#) (with transitional provision (17.3.2021) in [S.I. 2021/324](#), regs. 1(1), 2)

Changes to legislation:

There are currently no known outstanding effects for the Agricultural Holdings Act 1986, Section 39.