

1977 No. 1215

AGRICULTURE

**The Agriculture (Miscellaneous Provisions) Act 1976
(Application of Provisions) Regulations 1977**

<i>Made</i> -	<i>21st July 1977</i>
<i>Laid before Parliament</i>	<i>1st August 1977</i>
<i>Coming into Operation</i>	<i>23rd August 1977</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 23(8) of the Agriculture (Miscellaneous Provisions) Act 1976(a), hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Agriculture (Miscellaneous Provisions) Act 1976 (Application of Provisions) Regulations 1977 and shall come into operation on 23rd August 1977.

(2) In these Regulations “the Act” means the Agriculture (Miscellaneous Provisions) Act 1976.

(3) The Interpretation Act 1889(b) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Application of the Act in cases of death before succession

2.—(1) Where a person entitled to a joint tenancy of an agricultural holding by virtue of a direction under section 20(9) of the Act dies before the relevant time (as defined in section 23(2) of the Act) without having become the tenant or a joint tenant of that holding, that direction shall from the date of his death cease to have effect in relation to that person if he is survived by any other person jointly entitled under the direction; but the direction shall continue to have effect (subject to the provisions of the Act) in relation to the other person or persons as if the dead person had not been named therein; and the provisions of Part II of the Act, so far as relevant, shall apply accordingly.

(2) Where—

(a) a person entitled to a tenancy of an agricultural holding by virtue of a direction under section 20(5) or (6) of the Act; or

(b) the sole survivor of two or more persons entitled to a joint tenancy of an agricultural holding by virtue of a direction under section 20(9) of the Act

(a) 1976 c. 55.

(b) 1889 c. 63.

dies before the relevant time (as defined in section 23(2) of the Act) without having become the tenant or joint tenant of that holding, the provisions of Part II of the Act, except section 23(8), shall apply in accordance with the provisions of the Schedule to these Regulations subject to the exceptions, additions and modifications set out therein.

(3) Where two or more persons who are jointly entitled to a tenancy of the holding by virtue of a direction under section 20(9) of the Act have died in circumstances rendering it uncertain which of them survived the other, such deaths shall for the purposes of these Regulations be presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder.

Dated 21st July 1977.

Elwyn-Jones, C.

SCHEDULE

APPLICATION OF PART II OF THE ACT

1. Sections 16 and 17 shall not apply.
2. Section 18 shall apply—
 - (a) with the addition of the following subsection after subsection (1):—

“(1A) In subsection (1) and in the definition of “the deceased” in subsection (2), the expression “tenant” includes a person who is—

 - (i) entitled to a tenancy of an agricultural holding by virtue of a direction by the Tribunal under section 20(5) or (6) of this Act; or
 - (ii) the sole survivor of two or more persons entitled to a joint tenancy of an agricultural holding by virtue of such a direction under section 20(9) of this Act,

and who dies before the time at which, had he survived, he would have been deemed to have been granted and to have accepted that tenancy or joint tenancy”;
 - (b) with the addition in subsection (4) of the words “(except section 19A)” after the words “this Part of this Act”;
 - (c) as if the reference in subsection (4)(e) to subsection (1) included a reference to subsection (1A);
 - (d) with the exception of subsection (5).
3. Section 19 shall not apply, but instead the following section shall be added:—

“19A—(1) Where at the date of death of the deceased the holding is the subject of a relevant notice to quit, the operation of that notice shall, subject to subsection (2) below and notwithstanding any provision of this Act having effect

prior to the death of the deceased, take effect at the date specified in the notice for the termination of the tenancy to which it relates:

Provided that where, in the case of a relevant notice to quit, there remains at the date of death of the deceased a period of less than twelve months before the date specified in the notice for the termination of the tenancy of the holding, the operation of the notice shall be postponed for a period of twelve months.

(2) A relevant notice to quit shall not have effect unless either—

(a) no application to become the tenant of the holding is made under section 20 of this Act within the relevant period; or

(b) one or more such applications having been made within that period, either—

(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 22 of this Act to the operation of the notice to quit.

(3) In this section “relevant notice to quit” means a notice to quit the holding falling within section 24(2)(g) of the 1948 Act.”.

4. Sections 20 and 21 shall apply.

5. Section 22 shall apply as if the references to section 19 of the Act were references to section 19A.

6. Section 23 shall apply:—

(a) as if, in subsection (1), for the words “the date of death”, there were substituted the words “the date when the original tenant died”;

(b) as if for subsection (2) there were substituted the following subsection:—

“(2A) In this and the following section “the relevant time” means the end of the twelve months immediately following the end of the year of tenancy in which the deceased died.”;

(c) as if, in subsection (3), for the words “on the date of death the holding was held by the deceased” there were substituted the words “immediately before the death of the original tenant he held the holding”;

(d) as if the following subsection were added:—

“(9) In this and the next following section “the original tenant” means the tenant of the holding to whose tenancy the deceased would have succeeded, had he survived, by virtue of the provisions of this Part of this Act.”.

7. Section 24 shall apply as if in subsection (5)(a) for the word “deceased’s” there were substituted the words “the original tenant’s”.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations apply, with certain exceptions, additions and modifications, the provisions of Part II of the Agriculture (Miscellaneous Provisions) Act 1976 (which make provision for succession on the death of a tenant of an agricultural holding) in cases where the person or any of the persons whom a direction by an Agricultural Land Tribunal entitles to a tenancy or joint tenancy of the holding dies before he becomes the tenant thereof.

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