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 STATUTORY INSTRUMENTS
 

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1985 No. 1947

LANDLORD AND TENANT  
AGRICULTURAL HOLDINGS

**The Agricultural Holdings Act 1948 (Variation of Fourth  
Schedule) Order 1985**

*Approved by both Houses of Parliament*

<i>Made</i>	- - -	28th October 1985
<i>Laid before Parliament</i>		19th November 1985
<i>Coming into Operation</i>		1st February 1986

The Minister of Agriculture, Fisheries and Food in relation to England and the Secretary of State in relation to Wales, in exercise of the powers conferred on them by sections 78 and 93 of the Agricultural Holdings Act 1948(a), and of all other powers enabling them in that behalf, and after consultation with such bodies of persons as appear to them to represent the interests of landlords and tenants of agricultural holdings, hereby make the following Order:—

*Citation and commencement*

1. This Order may be cited as the Agricultural Holdings Act 1948 (Variation of Fourth Schedule) Order 1985 and shall come into operation on 1st February 1986.

*Interpretation*

2. In this Order “the Act” means the Agricultural Holdings Act 1948.

*Variation of Fourth Schedule to the Act*

3.—(1) Part II of the Fourth Schedule to the Act (which specifies matters for which compensation is payable in accordance with the provisions of the Act) shall be varied as follows—

(2) Paragraph 11(b) (acclimatisation, hefting or settlement of hill sheep on hill land) shall be renumbered as sub-paragraph (1) of paragraph 11 and after that sub-paragraph there shall be inserted—

“(2) In this paragraph—

“hill sheep” means sheep which—

- (a) have been reared and managed on a particular hill or mountain,
- (b) have developed an instinct not to stray from the hill or mountain,
- (c) are able to withstand the climatic conditions typical of the hill or mountain, and

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(a) 1948 c.63; the definition of “the Minister” in section 94(1) was last amended by the Agricultural Holdings Act 1984 (c.41), Schedule 3, paragraph 23(b).

(b) Paragraph 11 of the Fourth Schedule to the Agricultural Holdings Act 1948 was inserted by S.I. 1951/2168.

(d) have developed resistance to diseases which are likely to occur in the area in which the hill or mountain is situated;

“hill land” means any hill or mountain where only hill sheep are likely to thrive throughout the year.”

(3) In paragraph 12(a) (residual sod fertility value in certain districts)—

(a) in sub-paragraph (1) for the words from the beginning to “normal farming practice” there shall be substituted the words “In areas of the country where arable crops can be grown in an unbroken series of not less than six years, and it is reasonable that they should be grown on the holding or part thereof”;

(b) after sub-paragraph (1) there shall be inserted the following—

“(1A) For the purposes of this paragraph the growing of an arable crop includes the growing of clover, grass, lucerne, sainfoin or other seeds grown for a period of less than one year but does not include the laying down of a ley continuously maintained as such for more than one year.”;

(c) in sub-paragraph (2) for the definition of “the accepted proportion” there shall be substituted the following definition—

““the accepted proportion” means the area which represents the proportion which the total area of the leys on the holding would, taking into account the capability of the holding, be expected to bear to the area of the holding, excluding the permanent pasture thereon, or, if a greater proportion is provided for by or under the terms of the tenancy, that proportion.”.

#### *Amendments of previous Orders*

4.—(1) The Agricultural Holdings Act (Variation of Fourth Schedule) Order 1951 (b) shall be amended by omitting from article 2(1) (Interpretation) the words from “the expressions” to “made thereunder; and”.

(2) The Agricultural Holdings Act 1948 (Variation of Fourth Schedule) Order 1978 (c) shall be amended:—

(a) by substituting for article 3(2) (Variation of the Agricultural Holdings Act 1948)—

“(2) Every reference in the Act to Part I of the Fourth Schedule shall be construed as a reference to the said Part I as varied by this Order and every reference in the Act to Part II of the Fourth Schedule, except the references in paragraph (c) of the proviso to section 47(1), sections 47(2)(a) and 56(4), the proviso to section 63(2), the proviso to section 64 and section 65(2), shall be construed as including references to paragraph 12 of Part II of the said Schedule.”;

(b) by omitting article 4 (Application of paragraph 12 of the Fourth Schedule to the Act).

(a) Paragraph 12 of the Fourth Schedule to the Agricultural Holdings Act 1948 was inserted by S.I. 1978/742.

(b) S.I. 1951/2168.

(c) S.I. 1978/742.

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In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 28th October 1985.



*Michael Jopling,*  
Minister of Agriculture,  
Fisheries and Food.

*Nicholas Edwards,*  
Secretary of State for Wales.

25th October 1985.

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which comes into operation on 1st February 1986, inserts a new definition of the terms "hill sheep" and "hill land" in paragraph 11 of Schedule 4 to the Agricultural Holdings Act 1948 (matters for which compensation is payable in accordance with the provisions of that Act) (articles 3(2) and 4(1)).

Amendments are also made to paragraph 12 of that Schedule (residual sod fertility in certain districts) to reflect changes relating to the method of calculation of the value of residual sod fertility introduced by the Agriculture (Calculation of Value for Compensation) (Amendment) Regulations 1983 (S.I. 1983/1475) (article 3(3)).

Article 4(2) revokes article 4 of the Agricultural Holdings Act 1948 (Variation of Fourth Schedule) Order 1978, which required tenants of holdings who entered into occupation on or after 1st March 1948 but before 1st July 1978 to give notice to their landlords if they were to be entitled to claim compensation for residual sod fertility under the 1948 Act. Accordingly compensation under that Act will be available to such tenants automatically.

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