

SCHEDULES

SCHEDULE 6

Section 26.

FARM LOSS PAYMENTS

Right to a farm loss payment

- 1 (1) Subject to the provisions of this Schedule, if any person in occupation of the agricultural unit who has an owner's interest—
- (a) is displaced from the whole, or a sufficient part, of the land affected by the subsidence damage ("the land affected"); and
 - (b) not more than three years after the date of displacement, begins to farm another agricultural unit ("the new unit") elsewhere in Great Britain,
- he shall be entitled to receive a payment (a "farm loss payment") from the Corporation.
- (2) In sub-paragraph (1) above "owner's interest" means a freehold interest or a tenancy where his interest is as tenant for a year or from year to year or a greater interest and "sufficient part" means not less than 0.5 hectares or such area as the Secretary of State may by order specify.
- (3) No farm loss payment shall be made to any person unless on the date on which he begins to farm the new unit he is in occupation of the whole of that unit in right of a freehold interest in it or a tenancy of it, not having been entitled to any such interest or tenancy before the date of displacement.
- (4) No farm loss payment shall be made to any person who is entitled to a payment under section 28 of this Act in respect of land which consists of or includes the land from which he was displaced.
- (5) In the application of this paragraph to Scotland, references to a freehold interest in land are references to—
- (a) an interest as infert proprietor of the land;
 - (b) a right to the land without a completed title; or
 - (c) in the case of land subject to a heritable security constituted by *ex facie* absolute disposition, an interest as the debtor in the security, except where the creditor is in possession of the land,
- but do not include references to an interest as a superior only.

Amount of farm loss payment

- 2 (1) Subject to the provisions of this paragraph, the amount of any farm loss payment shall be equal to the average annual profit derived from the use for agricultural purposes of the agricultural land comprised in the land affected; and that profit shall be computed by reference to the profits for the three years ending with the date of displacement or, if the person concerned has then been in occupation for a shorter period, that period.

Status: This is the original version (as it was originally enacted).

- (2) Where accounts have been made up in respect of the profits of the person concerned for a period or consecutive periods of twelve months and that period or the last of them ends not more than one year before the date of displacement, sub-paragraph (1) above shall have effect as if the date on which that period or the last of those periods ends were the date of the displacement.
- (3) In calculating the profits mentioned in sub-paragraph (1) above there shall be deducted a sum equal to the rent that might reasonably be expected to be payable in respect of the agricultural land comprised in the land affected if it were let for agricultural purposes to a tenant responsible for rates, repairs and other outgoings; and that deduction shall be made whether or not the land is in fact let and, if it is, shall be made to the exclusion of any deduction for the rent actually payable.
- (4) Where the value of the agricultural land comprised in the land affected exceeds the value of the agricultural land comprised in the new unit, the amount of the farm loss payment shall be proportionately reduced.
- (5) For the purposes of sub-paragraph (4) above the value of any land shall be determined—
 - (a) on the basis of its value as land used solely for agriculture;
 - (b) by reference to the condition of the land and its surroundings and to prices current—
 - (i) in the case of the land comprised in the land affected, on the date of displacement;
 - (ii) in the case of land comprised in the new unit, on the date on which the person concerned begins to farm the new unit; and
 - (c) without regard to the principal dwelling, if any, comprised in the same agricultural unit as that land.
- (6) Paragraph 2 of Schedule 1 to this Act shall apply for the purpose of determining the value of any land for the purposes of sub-paragraph (4) above as it applies for the purpose of determining the value of a unit of property at any time for the purposes of section 10 or 11 of this Act.

Supplementary provisions

- 3 (1) The Corporation shall not be liable to make a farm loss payment except on a claim made by the person entitled to it before the end of the period of one year beginning with the date on which the requirement in paragraph 1(1)(b) above is complied with.
- (2) Any such claim shall be made in such form, and shall contain such particulars, as may be prescribed by regulations made by the Secretary of State.
- (3) Where the agricultural unit containing the land affected is occupied for the purposes of a partnership firm, paragraphs 1 and 2 above shall have effect in relation to the firm and not the partners individually (any interest of a partner in the land acquired being treated as an interest of the firm) except that the requirements in paragraph 1 above as to the new unit shall be treated as complied with in relation to the firm as soon as they are complied with by any one of the persons who were members of the firm.
- (4) Where a person dies before the expiration of the period for making a claim to a farm loss payment and would have been entitled to such a payment if he had made a claim within that period, a claim to that payment may be made, before the expiration of that period, by his personal representative.

Status: This is the original version (as it was originally enacted).

- (5) A farm loss payment shall carry interest at the applicable rate (if any) from the date mentioned in sub-paragraph (1) above until payment.