



# Agricultural Holdings Act 1986

## 1986 CHAPTER 5

### PART IV

#### SUCCESSION ON DEATH OR RETIREMENT OF TENANT

##### *Succession on death of tenant*

**<sup>F1</sup>48 Arbitration [<sup>F1</sup>or third party determination ] on terms of new tenancy.**

- (1) Where the Tribunal give a direction such as is mentioned in subsection (1) of section 45 above, the provisions of this section shall apply unless excluded by subsection (6) of that section.
- (2) In the following provisions of this section—
- “the landlord” means the landlord of the holding;
  - “the prescribed period” means the period between the giving of the direction and—
    - (a) the end of the three months immediately following the relevant time, or
    - (b) the end of the three months immediately following the date of the giving of the direction,whichever last occurs;
  - “the relevant time” has the meaning given by subsection (1) or (as the case may require) subsection (2) of section 46 above;
  - “the tenant” means the person or persons entitled to a tenancy or joint tenancy of the holding by virtue of the direction;
- and references to the holding shall be read in accordance with section 46(3) above.

**<sup>F2</sup>(3) Where the provisions of this section apply—**

- (a) the landlord or tenant may by notice in writing served on the other within the prescribed period demand a reference to arbitration under this Act of one or both of the questions specified in subsection (4) below, or

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- (b) the landlord and tenant may refer for third party determination under this Act one or both of those questions.]
- (4) Those questions (referred to in the following provisions of this section as “question (a)” and “question (b)” respectively) are—
  - (a) what variations in the terms of the tenancy which the tenant is entitled to or has obtained by virtue of the direction are justifiable having regard to the circumstances of the holding and the length of time since the holding was first let on those terms;
  - (b) what rent should be or should have been properly payable in respect of the holding at the relevant time.
- (5) Where question (a) is referred to arbitration [<sup>F3</sup>or third party determination] under subsection (3) above (with or without question (b)), the arbitrator [<sup>F4</sup>or (as the case may be) the third party ]—
  - (a) shall determine what variations, if any, in the terms mentioned in that question are justifiable as there mentioned, and
  - (b) without prejudice to the preceding paragraph, shall include in his award [<sup>F5</sup>or determination] such provisions, if any, as are necessary—
    - (i) for entitling the landlord to recover from the tenant under those terms a sum equal to so much as is in all the circumstances fair and reasonable of the aggregate amount of the compensation mentioned in subsection (8)(a) below, and
    - (ii) for entitling the tenant to recover from the landlord under those terms a sum equal to so much as is in all the circumstances fair and reasonable of the aggregate amount of the compensation mentioned in subsection (8)(b) below,

and shall accordingly, with effect from the relevant time, vary those terms in accordance with his determination or direct that they are to remain unchanged.
- (6) Where question (a) but not question (b) is referred to arbitration [<sup>F6</sup>or third party determination] under subsection (3) above and it appears to the arbitrator [<sup>F7</sup> or (as the case may be) the third party] that by reason of any provision included in his award [<sup>F8</sup>or determination] under subsection (5) above (not being a provision of a kind mentioned in paragraph (b) of that subsection) it is equitable that the rent of the holding should be varied, he may vary the rent accordingly with effect from the relevant time.
- (7) Where question (b) is referred to arbitration [<sup>F9</sup>or third party determination] under subsection (3) above (with or without question (a)), the arbitrator [<sup>F10</sup>or (as the case may be) the third party] shall determine what rent should be or should have been properly payable in respect of the holding at the relevant time and accordingly shall, with effect from that time, increase or reduce the rent which would otherwise be or have been payable or direct that it shall remain unchanged.
- (8) The compensation referred to in subsection (5)(b) above is—
  - (a) the compensation paid or payable by the landlord, whether under this Act or under agreement or custom, on the termination of the deceased’s tenancy of the holding,
  - (b) the compensation paid or payable to the landlord, whether under this Act or under agreement, on that termination in respect of any such dilapidation or deterioration of, or damage to, any part of the holding or anything in or on the holding as the tenant is or will be liable to make good under the terms of his tenancy.

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- (9) For the purposes of this section the rent properly payable in respect of the holding shall be the rent at which the holding might reasonably be expected to be let by a prudent and willing landlord to a prudent and willing tenant, taking into account all relevant factors, including (in every case) the terms of the tenancy or prospective tenancy (including those relating to rent) and any such other matters as are specifically mentioned in subparagraph (1) of paragraph 1 of Schedule 2 to this Act (read with subparagraphs (2) and (3) of that paragraph).
- (10) On any reference under subsection (3) above the arbitrator may include in his award [<sup>F11</sup>or (as the case may be) the third party may include in his determination] such further provisions, if any, relating to the tenancy which the tenant is entitled to or has obtained by virtue of the direction as may be agreed between the landlord and the tenant.
- (11) If the award of an arbitrator [<sup>F12</sup>or (as the case may be) the determination of a third party] under this section is made before the relevant time, section 47(1) above shall have effect subject to, and in accordance with, the award [<sup>F13</sup>or determination].
- (12) If the award of an arbitrator [<sup>F14</sup>or (as the case may be) the determination of a third party ] under this section is made after the relevant time, it shall have effect as if the terms of the award [<sup>F15</sup>or determination] were contained in an agreement in writing entered into by the landlord and the tenant and having effect as from the relevant time.

#### Textual Amendments

- F1** Words in s. 48 inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(9\)](#)
- F2** S. 48(3) substituted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(2\)](#)
- F3** Words in s. 48(5) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(3\)\(a\)\(i\)](#)
- F4** Words in s. 48(5) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(3\)\(a\)\(ii\)](#)
- F5** Words in s. 48(5)(b) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(3\)\(b\)](#)
- F6** Words in s. 48(6) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(4\)\(a\)](#)
- F7** Words in s. 48(6) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(4\)\(b\)](#)
- F8** Words in s. 48(6) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(4\)\(c\)](#)
- F9** Words in s. 48(7) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(5\)\(a\)](#)
- F10** Words in s. 48(7) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(5\)\(b\)](#)
- F11** Words in s. 48(10) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(6\)](#)
- F12** Words in s. 48(11) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(7\)\(a\)](#)
- F13** Words in s. 48(11) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(7\)\(b\)](#)
- F14** Words in s. 48(12) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(8\)\(a\)](#)

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**Changes to legislation:** *There are currently no known outstanding effects for the Agricultural Holdings Act 1986, Section 48. (See end of Document for details)*

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**F15** Words in s. 48(12) inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e)(3)(a), [Sch. 4 para. 16\(8\)\(b\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Agricultural Holdings Act 1986, Section 48.