
STATUTORY INSTRUMENTS

1973 No. 1473

LANDLORD AND TENANT

AGRICULTURAL HOLDINGS, ENGLAND AND WALES

The Agriculture (Maintenance, Repair and
Insurance of Fixed Equipment) Regulations 1973

<i>Made</i>	- - - -	<i>17th August 1973</i>
<i>Laid before Parliament</i>		<i>28th August 1973</i>
<i>Coming into Operation</i>		<i>29th September 1974</i>

The Minister of Agriculture, Fisheries and Food (hereinafter referred to as “the Minister”), in exercise of the powers conferred on him by section 6(1) of the Agricultural Holdings Act 1948 as read with section 15(2) of the Agriculture (Miscellaneous Provisions) Act 1972, and of all other powers enabling him in that behalf, and after consultation with such bodies of persons as appear to him to represent the interests of landlords and tenants of agricultural holdings, hereby makes the following regulations—

Citation and commencement

1. These regulations may be cited as the Agriculture (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1973, and shall come into operation on 29th September 1974.

Interpretation

2. The Interpretation Act 1889 shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament and as if these regulations and the regulations hereby revoked were Acts of Parliament.

Incorporation of provisions in tenancy agreements

3. The provisions set forth in the Schedule hereto relating to the maintenance, repair and insurance of fixed equipment shall be deemed to be incorporated in every contract of tenancy of an agricultural holding, whether made before or after the commencement of the Agricultural Holdings Act 1948, except in so far as they would impose on one of the parties to an agreement in writing a liability which under the agreement is imposed on the other:

Provided that where the interest of the landlord is held for the purposes of a Government department, or where a person representing Her Majesty or the Duke of Cornwall under section 87

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of the Agricultural Holdings Act 1948 is deemed to be the landlord, or where the landlord has made provision approved by the Minister for defraying the cost of any such works of repair or replacement as are referred to in sub-paragraph (1)(b) of paragraph 2 of the Schedule hereto, the provision of sub-paragraph (1)(a) of the said paragraph 2 requiring the landlord to insure against loss or damage by fire shall not apply.

Revocation

4. The Agriculture (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1948(1) are hereby revoked.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 17th August 1973.

L.S.

Joseph Godber
Minister of Agriculture, Fisheries and Food

SCHEDULE

MAINTENANCE, REPAIR AND INSURANCE OF THE FIXED EQUIPMENT OF A HOLDING

Part I

Rights and Liabilities of the Landlord

1.—(1) To execute all repairs and replacements to the under-mentioned parts of the farmhouse, cottages and farm buildings, namely:- roofs, including chimney stacks, chimney pots, eaves-guttering and downpipes, main walls and exterior walls, howsoever constructed, including walls and fences of open and covered yards and garden walls, together with any interior repair or decoration made necessary as a result of structural defect to such roofs or walls, floors, floor joists, ceiling joists and timbers, exterior and interior staircases and fixed ladders (including banisters or handrails) of the farmhouse and cottages, and doors, windows and skylights, including the frames of such doors, windows and skylights (but excepting glass or glass substitute, sashcords, locks and fastenings):

provided that in the case of repairs and replacements to floorboards, interior staircases and fixed ladders (including banisters or handrails), doors and windows and opening skylights (including frames), eaves-guttering and downpipes, the landlord may recover one-half of the reasonable cost thereof from the tenant.

(2) To execute all repairs and replacements to underground water supply pipes' wells, bore-holes and reservoirs and all underground installations connected therewith' and to sewage disposal systems, including septic tanks, filtering media and cesspools (but excluding covers and tops).

(3) Except as provided by paragraph 8, to replace anything mentioned in paragraph 5(1) which has worn out or otherwise become incapable of further repair unless the tenant is himself liable to replace it under paragraph 6.

- (a) 2. (1) (a) To keep the farmhouse, cottages and farm buildings insured to their full value against loss or damage by fire; and
- (b) as often as the farmhouse, cottages and farm buildings or any, or any part, of them shall be destroyed or damaged by fire, to execute all works of repair or replacement thereto necessary to make good damage by fire and to cause all money received in respect of such destruction or damage by virtue of such insurance to be laid out in the execution of such works.

(2) The proviso to paragraph 1(1) shall not apply to works falling within sub-paragraph (1)(b) of this paragraph.

3.—(1) As often as may be necessary in order to prevent deterioration, and in any case at intervals of not more than five years, properly to paint with at least two coats of a suitable quality or properly and adequately to gas-tar, creosote or otherwise effectively treat with a preservative material all outside wood and ironwork of the farmhouse, cottages and farm buildings, the inside wood and ironwork of all external outward opening doors and windows of farm buildings (but not of the farmhouse or cottages), and the interior structural steelwork of open-sided farm buildings which have been previously painted, gas-tarred, creosoted or otherwise treated with preservative material or which it is necessary in order to prevent deterioration of the same so to paint, gas-tar, creosote or treat with preservative material:

provided that in respect of doors, windows, eaves-guttering and downpipes the landlord may recover one-half of the reasonable cost of such work from the tenant, but if any such work to any of those items is completed before the commencement of the fifth year of the tenancy the sum which the

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landlord may so recover from the tenant shall be restricted to an amount equal to the aggregate of one-tenth part of such reasonable cost in respect of each year that has elapsed between the commencement of the tenancy and the completion of such work.

(2) In the last foregoing sub-paragraph “open-sided” means having the whole or the greater part of at least one side or end permanently open, apart from roof supports, if any.

4.—(1) The landlord shall be under no liability—

- (a) to execute repairs or replacements or to insure buildings or fixtures which are the property of the tenant, or
- (b) subject to paragraph 2(1)(b), to execute repairs or replacements rendered necessary by the wilful act or the negligence of the tenant or any members of his household or his employees.

(2) If the tenant does not start work on the repairs or replacements for which he is liable under paragraphs 5, 6, 7 and 8 within two months, or if he fails to complete them within three months of receiving from the landlord a written notice (not being a notice to remedy breach of tenancy agreement by doing work of repair, maintenance or replacement in a form prescribed under section 19(1) and (3) of the Agriculture (Miscellaneous Provisions) Act 1963) specifying the necessary repairs or replacements and calling on him to execute them the landlord may enter and execute such repairs or replacements and recover the reasonable cost from the tenant forthwith.

- (a) (3) (a) If the tenant wishes to contest his liability to execute any repairs or replacements specified in a notice served upon him by the landlord under the last foregoing sub-paragraph he shall within one month serve a counter-notice in writing upon the landlord specifying the grounds on which and the items of repair or replacement in respect of which he denies liability and requiring the question of liability in respect thereof to be determined by arbitration under the Act.
- (b) Upon service of the counter-notice on the landlord, the operation of the notice (including the running of time thereunder) shall be suspended, in so far as it relates to the items specified in the counter-notice, until the termination of an arbitration determining the question of liability in respect of those items.
- (c) In this sub-paragraph, “termination”, in relation to an arbitration, means the date on which the arbitrator's award is delivered to the tenant.

Part II

Rights and liabilities of the Tenant

Except in so far as such liabilities fall to be undertaken by the landlord under Part 1 hereof:

5.—(1) To repair and to keep and leave clean and in good tenantable repair, order and condition the farmhouse, cottages and farm buildings together with all fixtures and fittings, boilers, ranges and grates, drains, sewers, gulleys, grease-traps, manholes and inspection chambers, electrical supply systems and fittings, water supply systems and fittings in so far as they are situated above ground, including pipes, tanks, cisterns, sanitary fittings, drinking troughs and pumping equipment, hydraulic rams (whether situated above or below ground), fences, hedges, field walls, stiles, gates and posts, cattle grids, bridges, culverts, ponds, watercourses, sluices, ditches, roads and yards in and upon the holding, or which during the tenancy may be erected or provided thereon.

(2) To repair or replace all removable covers to manholes, to inspection chambers and to sewage disposal systems.

(3) To keep clean and in good working order all roof valleys, eaves-guttering and downpipes, wells, septic tanks, cesspools and sewage disposal systems.

(4) To use carefully so as to protect from wilful, reckless or negligent damage all items for the repair or replacement of which the landlord is responsible under paragraph 1; and also to report in writing immediately to the landlord any damage, however caused, to items for the repair or replacement of which the landlord is responsible.

6. Subject to paragraph 2(1)(b)—

(1) to replace or repair and, upon replacement or repair, adequately to paint, gas-tar, creosote or otherwise treat with effective preservative material as may be proper, all items of fixed equipment, and to do any work, where such replacement, repair or work is rendered necessary by the wilful act or negligence of the tenant or any members of his household or his employees; and

(2) to replace anything mentioned in paragraph 5(1) which has worn out or otherwise become incapable of repair if its condition has been brought about by or is substantially due to the tenant's failure to repair it.

7. As often as may be necessary, and in any case at intervals of not more than seven years, properly to clean, colour, whiten, paper, paint, limewash or otherwise treat with materials of suitable quality the inside of the farmhouse, cottages and farm buildings, including the interior of outward opening doors and windows of the farmhouse and cottages, which have been previously so treated and in the last year of the tenancy to limewash the inside of all buildings which previously have been limewashed.

8. Notwithstanding the general liability of the landlord for repairs and replacements, to renew all broken or cracked tiles or slates and to replace all slipped tiles or slates from time to time as the damage occurs, but so that the cost shall not exceed £25 in any one year of the tenancy.

9. To cut, trim or lay a proper proportion of the hedges in each year of the tenancy so as to maintain them in good and sound condition.

10. To dig out, scour and cleanse all ponds, watercourses, ditches and grips, as may be necessary to maintain them at sufficient width and depth, and to keep clear from obstruction all field drains and their outlets.

11.—(1) If the last year of the tenancy is not a year in which such cleaning, colouring, whitening, papering, painting, limewashing or other treatment as is mentioned in paragraph 7 is due to be carried out, the tenant shall pay to the landlord at the end of such last year either the estimated reasonable cost thereof or a sum equal to the aggregate of one-seventh part of that cost in respect of each year that has elapsed since such last cleaning, colouring, whitening, papering, painting, limewashing or other treatment as aforesaid, was completed, whichever is the less.

(2) If the last year of the tenancy is not a year in which the landlord is liable, under paragraph 3, to paint, gas-tar, creosote or otherwise treat the doors, windows, eavesguttering and downpipes of buildings, the tenant shall pay to the landlord at the end of such last year either one-half of the estimated reasonable cost thereof or a sum equal to the aggregate of one-tenth part of that cost in respect of each year that has elapsed since such last painting, gas-tarring, creosoting or other treatment as aforesaid, was completed, whichever is the less.

(3) In the assessment of any compensation payable by the tenant on the termination of the tenancy in respect of dilapidation, any accrued liability under the two preceding sub-paragraphs shall be taken into account.

12.—(1) If the landlord fails to execute repairs which are his liability within three months of receiving from the tenant a written notice specifying the necessary repairs and calling on him to execute them, the tenant may execute such repairs and, except to the extent to which under the terms

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of Part I hereof the tenant is liable to bear the cost, recover the reasonable cost from the landlord forthwith.

(2) If the landlord fails to execute any replacements which are his liability within three months of receiving from the tenant a written notice specifying the necessary replacements and calling on him to execute them, the tenant may execute such replacements and, except to the extent to which under the terms of Part I hereof the tenant is liable to bear the cost, recover the reasonable cost from the landlord forthwith;

provided that the tenant shall not be entitled to recover in respect of the aggregate of the replacements so executed by him in any year of the tenancy any sum in excess of whichever is the smaller of the two following sums, that is to say, a sum equal to the rent of the holding for that year or £500.

- (a) (3) (a) If the landlord wishes to contest his liability to execute any repairs or replacements specified in a notice served upon him by the tenant under either of the last two foregoing sub-paragraphs he shall within one month serve a counter-notice in writing upon the tenant specifying the grounds on which and the items of repair or replacement in respect of which he denies liability and requiring the question of liability in respect thereof to be determined by arbitration under the Act.
- (b) Upon service of the counter-notice on the tenant, the operation of the notice (including the running of time thereunder) shall be suspended, in so far as it relates to the items specified in the counter-notice, until the termination of an arbitration determining the question of liability in respect of those items.
- (c) In this sub-paragraph, "termination", in relation to an arbitration, means the date on which the arbitrator's award is delivered to the landlord.

Part III

General Provisions

13.—(1) If at any time and from time to time the landlord or the tenant shall be of opinion that any item of fixed equipment is, or before the same was damaged or destroyed by fire was, redundant to the farming of the holding, the landlord or the tenant may by giving two months' notice in writing to the other of them require that the question whether such item of fixed equipment is, or before such damage or destruction was, so redundant shall be determined, in default of agreement, by arbitration under the Act, and if the arbitrator shall award that the said item of fixed equipment is, or before such damage or destruction by fire was, redundant to the farming of the holding then, as from the date of such award, paragraph 14(1) shall apply to that item and both the landlord and the tenant shall be relieved from all liability in respect of any antecedent breach of any obligation to maintain, repair or replace the item of fixed equipment so awarded to be redundant and the landlord shall be entitled to demolish and remove such item of fixed equipment and to enter upon the holding for those purposes.

(2) In any arbitration to which sub-paragraph (1) of this paragraph applies, no item of fixed equipment shall be determined to be, or to have been before damage or destruction by fire, as the case may be, redundant to the farming of the holding, unless the arbitrator shall be satisfied that the repair or replacement of such item is or, as the case may be, was, not reasonably required having regard to—

- (a) (i) the landlord's responsibilities to manage the holding in accordance with the rules of good estate management; and
- (ii) the period for which the holding may reasonably be expected to remain a separate holding; and
- (b) the character and situation of the holding and the average requirements of a tenant reasonably skilled in husbandry.

14. Nothing contained in Part I or Part II hereof shall create any liability on the part of either landlord or tenant:

(1) to maintain, repair, replace or insure any item of fixed equipment which the landlord and the tenant agree in writing to be obsolete or redundant to the farming of the holding or which in the event of any dispute between them as to whether it is, or before the same was damaged or destroyed by fire was, redundant to the farming of the holding, shall be awarded to be so redundant by an arbitrator in an arbitration as mentioned in paragraph 13; or

(2) to execute any work if and so far as the execution of such work is rendered impossible (except at prohibitive or unreasonable expense) by reason of subsidence of any land or the blocking of outfalls which are not under the control of either the landlord or the tenant.

15. If any claim, question or difference shall arise between the landlord and the tenant under the foregoing provisions hereof, not being a matter which, otherwise than under the provisions of this paragraph, is required by or by virtue of the Act or section 19 of the Agriculture (Miscellaneous Provisions) Act 1963 (notice to remedy breach of tenancy agreement) or regulations or orders made thereunder or the foregoing provisions hereof to be determined by arbitration under the Act, such claim, question or difference shall be determined, in default of agreement, by arbitration under the Act.

Interpretation

16.—(1) In this Schedule, unless the context otherwise requires, “the Act” means the Agricultural Holdings Act 1948 as amended by any other enactment.

(2) Any reference in this Schedule to a numbered paragraph is a reference to the paragraph bearing that number in this Schedule.

EXPLANATORY NOTE

These Regulations revoke and replace the Agriculture (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1948. They come into operation on 29th September 1974.

These Regulations prescribe terms, set out in the Schedule, as to the maintenance, repair and insurance of fixed equipment which are to be deemed to be incorporated in every contract of tenancy of an agricultural holding. The Schedule to the Regulations divides between the landlord and the tenant of a holding the responsibility for maintaining, repairing and insuring fixed equipment, and imposes upon each party certain specific liabilities in regard to those matters.

The prescribed terms do not apply where an agreement in writing is in existence, or is entered into, which imposes on one of the parties to the agreement a liability which the prescribed terms would impose on the other. The prescribed term requiring the landlord to insure against loss or damage by fire does not apply in the circumstances specified in the proviso to Regulation 3. Under section 6(2) of the Agricultural Holdings Act 1948, where a written agreement substantially modifies the rights and liabilities of the parties under the prescribed terms, it is open to either party to refer the terms of the tenancy relating to the maintenance, repair and insurance of fixed equipment to arbitration under the Act and the arbitrator may by his award vary the terms referred to arbitration in such manner as appears to him to be just and reasonable between the landlord and the tenant.

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The substance of the revoked Regulations is reproduced in these Regulations with certain differences, the main ones being the following:—

- (a) Certain items have been added to the general repair and maintenance obligations of the landlord and the tenant respectively;
- (b) The list of items in respect of the cost of repair of which the landlord is entitled to recover one-half from the tenant has been extended;
- (c) The landlord is made liable to replace any items for the repair of which the tenant is liable (with certain exceptions) and which have become incapable of further repair, unless the tenant is expressly made liable for their replacement;
- (d) Limits are placed on the amounts which the landlord and the tenant may recover from the other of them at the commencement or end of the tenancy as part of the cost of certain specified items of work carried out by them;
- (e) The limit on the tenant's liability for replacement of roof tiles or slates in any one year is increased from £5 to £25;
- (f) The tenant may recover from the landlord in any one year the cost of replacements carried out by him, but which are the landlord's liability, up to a limit of £500 or the year's rent whichever is the less; and
- (g) Provisions are made enabling the landlord or the tenant on whom a notice has been served by the other of them requiring him to execute specified repairs or replacements, to contest his liability, and for determination of such disputes by arbitration under the Agricultural Holdings Act 1948. Provision is also made for settling disputes concerning the redundancy of any building, and for settling other disputes arising under the Schedule, by arbitration under the Act.