

1983 No. 1073 (S. 100)**LANDLORD AND TENANT****The Agricultural Holdings (Specification of Forms) (Scotland)
Order 1983**

Made - - - - - 19th July 1983
Coming into Operation 28th July 1983

In exercise of the powers conferred on me by paragraphs 10 and 23 of Schedule 6 to the Agricultural Holdings (Scotland) Act 1949(a), and of all other powers enabling me in that behalf, and after consultation with the Council on Tribunals as provided in section 10 of the Tribunals and Inquiries Act 1971(b), I hereby make the following order:—

1.—(1) This order may be cited as the Agricultural Holdings (Specification of Forms) (Scotland) Order 1983, and shall come into operation on the 28th July 1983.

(2) In this order “the Act” means the Agricultural Holdings (Scotland) Act 1949.

2. The form specified in Schedule 1 to this order shall, modified as circumstances may require, be the form of an award in an arbitration under the Act.

3. The forms specified in Schedule 2 to this order or forms as near thereto as circumstances may require may be used for proceedings in arbitrations under the Act as follows:—

- (a) for the making of an application for appointment by the Secretary of State of an arbiter to determine claims, questions or differences (except as to determination of rent) arising between the landlord and tenant of an agricultural holding—Form A;
- (b) for the making of an application for appointment by the Secretary of State of an arbiter to determine the rent of an agricultural holding—Form B;
- (c) for the making of an application to the Secretary of State by an arbiter for extension of time for making his award in an arbitration—Form C.

(a) 1949 c. 75; paragraph 10 of Schedule 6 was amended by the Agricultural Holdings (Amendment) (Scotland) Act 1983 (c. 46), section 5(2)(c).

(b) 1971 c. 62.

4.—(1) The Agricultural Holdings (Specification of Forms) (Scotland) Instrument 1960(a) and the Agricultural Holdings (Specification of Forms) (Scotland) Amendment Instrument 1979(b) are hereby revoked.

(2) Anything whatsoever done under or by virtue of the instruments revoked by this order shall be deemed to have been done under or by virtue of the corresponding provision of this order and anything whatsoever begun under any article of the said instruments may be continued under this order as if begun under this order.

New St Andrew's House,
Edinburgh.
19th July 1983.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

SCHEDULE 1

Article 2

FORM OF AWARD

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 1949

Award in Arbitration between A. B. (name and address), the [outgoing] tenant, and C. D. (name and address), the landlord, with regard to the holding known as (insert name of holding, district and region), [lately] in the occupation of the said tenant.

Whereas under the Agricultural Holdings (Scotland) Act 1949, the claims, questions or differences set forth in the Schedule to this Award are referred to arbitration in accordance with the provisions set out in Schedule 6 to the said Act:

And whereas by appointment dated the day of 19 , signed by (on behalf of) the said tenant and landlord [or, as the case may be—given under the seal of the Secretary of State], I, (insert name and address), was duly appointed under the said Act to be the arbiter for the purpose of

- ¹ settling the said claims
- settling the said questions or differences
- ² determining the rent to be paid in respect of the said holding as from²

in accordance with the provisions set out in Schedule 6 to the said Act:

[And whereas the time for making my Award has been extended by

- ¹ (the written agreement of the said tenant and landlord, dated the day of 19 ,
- order of the Secretary of State, dated the day of 19 ,
- to the day of 19 .]

(a) S.I. 1960/1337.

(b) S.I. 1979/800.

And whereas I, the said (insert name) , having accepted the appointment as arbiter, and having heard the parties (agents for the parties) and examined the documents and other productions lodged and the evidence led and having fully considered the whole matters referred to me, do hereby make my final Award as follows:—³

I award and determine that the said landlord shall pay to the said tenant the sum of pounds and pence, as compensation in respect of the claims set forth in the [first part of the] Schedule to this Award, the amount awarded in respect of each claim being as there stated.

I award and determine that the said tenant shall pay to the said landlord the sum of pounds and pence, in respect of the claims set forth in the [second part of the] Schedule to this Award, the amount awarded in respect of each claim being as there stated.

I determine the questions or differences set forth in the [third part of the] Schedule to this Award, as follows, namely:—

¹ I fix and determine the rent to be paid by the said tenant to the said landlord, as from² to be the sum of per anum. [My findings in fact and the reasons for my decision are set forth in the [fourth part of the] Schedule to this award.]

I award and direct that each party shall bear his own expenses and one half of the other expenses of and incidental to the arbitration and Award, including my remuneration [and that of the clerk].
(or otherwise as the arbiter may see fit to direct in light of the provisions of section 76(4) of, and paragraphs 16 to 18 of Schedule 6 to, the said Act) and that, subject to the provisions of the said Act, all sums including any expenses, payable under or by virtue of this Award shall be so paid not later than⁴

In witness whereof I have signed this Award this day of 19 , in the presence of the following witnesses.

Signature
Designation (*Arbiter*)
Address

Signature
Designation
Address

Schedule to the above Award

In the case of appointment by the Secretary of State or by the Scottish Land Court of an arbiter to determine claims questions or differences (except as to rent) the arbiter must, if either party so requests, state the reasons for any determination arrived at (section 12 of the Tribunals and Inquiries Act 1971).

In the case of appointment by the Secretary of State or by the Scottish Land Court of an arbiter to determine the rent of an agricultural holding under section 7 of the 1949 Act, the arbiter shall, in every case, and regardless of whether or not he is requested to do so, state in writing his findings of fact and the reasons for his decision under the headings set forth in Part IV of this Schedule (paragraph 9A of Schedule 6 to the 1949 Act).

Claims,⁵ questions or differences to be determined.

Part I—
Claims made by the tenant.

Part II—
Claims made by the landlord.

Part III—
Questions or differences (including questions of rent in cases where the arbiter is not appointed by the Secretary of State or Scottish Land Court).

Part IV—
Variation of rent cases under section 7 of the 1949 Act in which the arbiter is appointed by the Secretary of State or Scottish Land Court

In such cases a statement under the following headings must be provided as a Schedule to the Award and made available to the parties to the case and the Secretary of State—

- (i) a summary of the statement of case submitted by or on behalf of the landlord;
- (ii) a summary of the statement of case submitted by or on behalf of the tenant;
- (iii) details of any evidence of the condition of the holding, including the state of the landlord's and tenant's fixed equipment, which emerged at the inspection of the holding and were taken into account;
- (iv) a summary of the relevant evidence considered at any hearing;
- (v) an appraisal of the evidence submitted under (i) to (iv);
- (vi) details of any other evidence of open market rents for comparable subjects introduced by the arbiter on which the parties had an opportunity to comment and which the arbiter took into account;
- (vii) the reasons for seeking evidence (in terms of the factors specifically listed in section 7(1A) of the 1949 Act) other than evidence of open market rents for comparable subjects in the surrounding area;
- (viii) details of the factors specified in section 7(1A) of the 1949 Act which the arbiter considers it desirable to take into account;

- (ix) an indication of the weight attached by the arbiter to the various criteria taken into account;
- (x) an explanation of any adjustment made by the arbiter to take account of differences in holdings used for comparative purpose;
- (xi) any other explanation necessary to clarify the arbiter's decision.

¹ Adapt to meet the circumstances.

² Insert date from which revised rent is to run. (Where variation of rent under section 7 of the 1949 Act is concerned, the date will be the next ensuing day on which the tenancy could have been terminated by notice to quit given at the date of demanding the reference of the rent question to arbitration—usually a term of Whitsunday or Martinmas.)

³ Such parts of the following four paragraphs as may be appropriate should be incorporated in the award, adaptations to meet the particular circumstances being made as necessary.

⁴ The date of payment specified must not be later than one calendar month after the delivery of the Award.

⁵ Where claims are made under Schedules 1, 2, 3 or 4 to the 1949 Act, the amounts awarded must, if either party so requires, be shown separately against each numbered item as set out in those Schedules. Where claims are made by either party under agreement or custom and not under statute, the amounts awarded must be separately stated.

SCHEDULE 2

Article 3

FORM A

(Application for appointment by the Secretary of State of an arbiter to determine claims, question or differences (except as to determination of rent) arising between the landlord and tenant of an agricultural holding).

 AGRICULTURAL HOLDINGS (SCOTLAND) ACT 1949

To the Secretary of State,

In default of agreement between the landlord and the tenant of the holding specified in the Schedule to this application as to the person to act as arbiter and in the absence of any provision in any lease or agreement between them relating to the appointment of an arbiter, I/we hereby apply to the Secretary of State to appoint an arbiter for the purpose of settling the claims questions or differences set out in the Schedule to this application.

Signature(s)

¹

Date

 SCHEDULE

(Applicants seeking determination of a claim for compensation associated with questions and differences should answer questions 1 to 11 inclusive)

Particulars required	Replies
SECTION A—To be completed by all applicants	
1. Name and address of holding	Holding: District: Region:
2. Name and address of landlord.	
3. Name and address of landlord's agent. ²	
4. Name and address of tenant.	
5. Name and address of tenant's agent. ²	
6. If the tenancy has terminated state date of termination.	
7. Approximate area in hectares of holding.	
8. Description of holding. ³	

SECTION B—*To be completed ONLY by applicants seeking determination of a claim for compensation*

9. If an extension of time has been granted under section 68(3) of the Agricultural Holdings (Scotland) Act 1949 for the settlement of claims, state date on which extension expires.
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10. Nature of claim to be referred to arbitration.
- (a) State claim for compensation for improvements by the tenant, and give short particulars of any further claims by the tenant.
- (b) Give short particulars of any claims by the landlord.
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SECTION C—*To be completed ONLY by applicants seeking determination of questions or differences*

11. State questions or differences to be referred to arbitration.

¹ State whether landlord or tenant. If an agent signs state on whose behalf he is signing. The appointment will be expedited if the application is made by both parties.

² If no agent, insert "None".

³ Describe holding briefly, e.g. mixed, arable, dairying, market garden.

FORM B

(Application for appointment by the Secretary of State of an arbiter to determine the rent of an agricultural holding).

AGRICULTURAL HOLDINGS (SCOTLAND) ACT, 1949

To the Secretary of State,

In default of agreement between the landlord and the tenant of the holding specified in the Schedule to this application as to the person to act as arbiter and in the absence of any provision in any lease or agreement between them relating to the appointment of an arbiter, I/we hereby apply to the Secretary of State to appoint an arbiter to determine the rent to be paid for the said holding as from 19 :
(enter appropriate date in accordance with note 1 below)

Signature(s)

²

Date

SCHEDULE

Particulars required	Replies
1. Name and address of holding.	Holding: District: Region:
2. Name and address of landlord.	
3. Name and address of landlord's agent. ³	
4. Name and address of tenant.	
5. Name and address of tenant's agent. ³	
6. Approximate area in hectares of holding.	
7. Description of holding. ⁴	
8. Date of demand in writing for reference to arbitration.	
9. Date at which tenancy of holding could be terminated by notice to quit.	
10. (a) Date of commencement of tenancy. (b) Effective date of any previous increase or reduction of rent. (c) Effective date of any previous direction of an arbiter that the rent continue unchanged.	

¹ Where variation of rent under section 7 of the 1949 Act is concerned, the date will be the next ensuing day on which the tenancy could have been terminated by notice to quit given at the date of demanding the reference of the rent question to arbitration—usually a term of Whitsunday or Martinmas.

² State whether landlord or tenant. If an agent signs, state on whose behalf he is signing. The appointment will be expedited if the application is made by both parties.

³ If no agent, insert "None" in second column.

⁴ Describe holding briefly, e.g. mixed, arable, dairying, market garden.

FORM C

(Application to the Secretary of State by an arbiter for extension of time for making his award in an arbitration.)

 AGRICULTURAL HOLDINGS (SCOTLAND) ACT 1949

To the Secretary of State,

As the time for making the Award in the arbitration detailed below will expire/expired on the day of 19 , I hereby apply for an extension of the time for making the said Award to the day of 19 .

*(Signature of arbiter
or arbiter's clerk)*

Date

Details to be supplied—

1. Name of holding and district and region in which situated.
2. Name and address of landlord (and agent, if any).
3. Name and address of tenant (and agent, if any).
4. Name and address of arbiter (and clerk, if any).
5. (a) Date on which arbiter appointed.
(b) Whether appointed by agreement of parties or by the Secretary of State or Scottish Land Court.

 EXPLANATORY NOTE

(This Note is not part of the Order.)

The forms specified in this Order take the place of the forms specified in the Agricultural Holdings (Specification of Forms) (Scotland) Instrument 1960, revised to take account of the provisions of the Agricultural Holdings (Amendment) (Scotland) Act 1983.

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