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

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## SCHEDULES

### <sup>F1</sup>SCHEDULE 2

#### ARBITRATION [<sup>F1</sup>OR THIRD PARTY DETERMINATION] OF RENT: PROVISIONS SUPPLEMENTARY TO SECTION 12

##### Textual Amendments

- F1** Words in Sch. 2 heading 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. 25\(6\)](#)

##### *Amount of rent*

- 1 (1) For the purposes of section 12 of this Act, the rent properly payable in respect of a 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 (subject to sub-paragraph (3) and paragraphs 2 and 3 below) all relevant factors, including (in every case) the terms of the tenancy (including those relating to rent), the character and situation of the holding (including the locality in which it is situated), the productive capacity of the holding and its related earning capacity, and the current level of rents for comparable lettings, as determined in accordance with sub-paragraph (3) below.
- (2) In sub-paragraph (1) above, in relation to the holding—
- (a) “productive capacity” means the productive capacity of the holding (taking into account fixed equipment and any other available facilities on the holding) on the assumption that it is in the occupation of a competent tenant practising a system of farming suitable to the holding, and
- (b) “related earning capacity” means the extent to which, in the light of that productive capacity, a competent tenant practising such a system of farming could reasonably be expected to profit from farming the holding.
- (3) In determining for the purposes of that sub-paragraph the current level of rents for comparable lettings, the arbitrator [<sup>F1</sup>or (as the case may be) the third party ] shall take into account any available evidence with respect to the rents (whether fixed by agreement between the parties or by arbitration [<sup>F2</sup>or third party determination] under this Act) which are, or (in view of rents currently being tendered) are likely to become, payable in respect of tenancies of comparable agricultural holdings on terms (other than terms fixing the rent payable) similar to those of the tenancy under consideration, but shall disregard—
- (a) any element of the rents in question which is due to an appreciable scarcity of comparable holdings available for letting on such terms compared with the number of persons seeking to become tenants of such holdings on such terms,

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- (b) any element of those rents which is due to the fact that the tenant of, or a person tendering for, any comparable holding is in occupation of other land in the vicinity of that holding that may conveniently be occupied together with that holding, and
- (c) any effect on those rents which is due to any allowances or reductions made in consideration of the charging of premiums.

#### **Textual Amendments**

- F1** Words in Sch. 2 para. 1(3) 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. 25(2)(a)**
- F2** Words in Sch. 2 para. 1(3) 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. 25(2)(b)**

- 2 (1) On a reference under section 12 of this Act, the arbitrator [<sup>F3</sup>or (as the case may be) the third party] shall disregard any increase in the rental value of the holding which is due to—
- (a) tenant’s improvements or fixed equipment other than improvements executed or equipment provided under an obligation imposed on the tenant by the terms of his contract of tenancy, and
  - (b) landlord’s improvements, in so far as the landlord has received or will receive grants out of money provided by Parliament or local government funds in respect of the execution of those improvements.
- (2) In this paragraph—
- (a) “tenant’s improvements” means any improvements which have been executed on the holding, in so far as they were executed wholly or partly at the expense of the tenant (whether or not that expense has been or will be reimbursed by a grant out of money provided by Parliament or local government funds) without any equivalent allowance or benefit made or given by the landlord in consideration of their execution,
  - (b) “tenant’s fixed equipment” means fixed equipment provided by the tenant, and
  - (c) “landlord’s improvements” means improvements executed on the holding by the landlord.
- (3) Where the tenant has held a previous tenancy of the holding, then—
- (a) in the definition of “tenant’s improvements” in sub-paragraph (2)(a) above, the reference to any such improvements as are there mentioned shall extend to improvements executed during that tenancy, and
  - (b) in the definition of “tenant’s fixed equipment” in sub-paragraph (2)(b), the reference to such equipment as is there mentioned shall extend to equipment provided during that tenancy,
- excluding, however, any improvement or fixed equipment so executed or provided in respect of which the tenant received any compensation on the termination of that (or any other) tenancy.
- (4) For the purposes of sub-paragraph (2)(a) above, the continuous adoption by the tenant of a system of farming more beneficial to the holding—
- (a) than the system of farming required by the contract of tenancy, or

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(b) in so far as no system is so required, than the system of farming normally practised on comparable agricultural holdings, shall be treated as an improvement executed at his expense.

#### Textual Amendments

**F3** Words in Sch. 2 para. 2(1) 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. 25\(3\)](#)

- 3 On a reference under section 12 of this Act the arbitrator [<sup>F4</sup>or (as the case may be) the third party ]—
- (a) shall disregard any effect on the rent of the fact that the tenant who is a party to the arbitration [<sup>F5</sup>or third party determination] is in occupation of the holding, <sup>F6</sup>...
- [<sup>F7</sup>(aa) in a case where the tenant is, under an agreement in writing with the landlord, required to make payments in respect of improvements to the holding that are or are to be wholly or partly financed by the landlord, shall disregard any effect on the rent of—
- (i) the fact that the tenant is required to make such payments, and
- (ii) any benefit to the tenant arising from the improvements before the date on which the last of those payments falls to be made, and]
- (b) shall not fix the rent at a lower amount by reason of any dilapidation or deterioration of, or damage to, buildings or land caused or permitted by the tenant.

#### Textual Amendments

**F4** Words in Sch. 2 para. 3 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. 25\(4\)\(a\)](#)

**F5** Words in Sch. 2 para. 3(a) 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. 25\(4\)\(b\)](#)

**F6** Word in Sch. 2 para. 3(a) omitted (11.11.2020 for specified purposes, 11.1.2021 in so far as not already in force) by virtue of [Agriculture Act 2020 \(c. 21\)](#), s. 57(1)(b)(c)(6), [Sch. 3 para. 8\(2\)](#)

**F7** Sch. 2 para. 3(aa) inserted (11.11.2020 for specified purposes, 11.1.2021 in so far as not already in force) by [Agriculture Act 2020 \(c. 21\)](#), s. 57(1)(b)(c)(6), [Sch. 3 para. 8\(3\)](#)

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