



# Agricultural Tenancies Act 1995

## 1995 CHAPTER 8

### PART I

#### GENERAL PROVISIONS

##### *Farm business tenancies*

#### **1 Meaning of “farm business tenancy”.**

- (1) A tenancy is a “farm business tenancy” for the purposes of this Act if—
  - (a) it meets the business conditions together with either the agriculture condition or the notice conditions, and
  - (b) it is not a tenancy which, by virtue of section 2 of this Act, cannot be a farm business tenancy.
- (2) The business conditions are—
  - (a) that all or part of the land comprised in the tenancy is farmed for the purposes of a trade or business, and
  - (b) that, since the beginning of the tenancy, all or part of the land so comprised has been so farmed.
- (3) The agriculture condition is that, having regard to—
  - (a) the terms of the tenancy,
  - (b) the use of the land comprised in the tenancy,
  - (c) the nature of any commercial activities carried on on that land, and
  - (d) any other relevant circumstances,the character of the tenancy is primarily or wholly agricultural.
- (4) The notice conditions are—
  - (a) that, on or before the relevant day, the landlord and the tenant each gave the other a written notice—
    - (i) identifying (by name or otherwise) the land to be comprised in the tenancy or proposed tenancy, and

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- (ii) containing a statement to the effect that the person giving the notice intends that the tenancy or proposed tenancy is to be, and remain, a farm business tenancy, and
  - (b) that, at the beginning of the tenancy, having regard to the terms of the tenancy and any other relevant circumstances, the character of the tenancy was primarily or wholly agricultural.
- (5) In subsection (4) above “the relevant day” means whichever is the earlier of the following—
- (a) the day on which the parties enter into any instrument creating the tenancy, other than an agreement to enter into a tenancy on a future date, or
  - (b) the beginning of the tenancy.
- (6) The written notice referred to in subsection (4) above must not be included in any instrument creating the tenancy.
- (7) If in any proceedings—
- (a) any question arises as to whether a tenancy was a farm business tenancy at any time, and
  - (b) it is proved that all or part of the land comprised in the tenancy was farmed for the purposes of a trade or business at that time,
- it shall be presumed, unless the contrary is proved, that all or part of the land so comprised has been so farmed since the beginning of the tenancy.
- (8) Any use of land in breach of the terms of the tenancy, any commercial activities carried on in breach of those terms, and any cessation of such activities in breach of those terms, shall be disregarded in determining whether at any time the tenancy meets the business conditions or the agriculture condition, unless the landlord or his predecessor in title has consented to the breach or the landlord has acquiesced in the breach.

**Modifications etc. (not altering text)**

**C1** S. 1 modified (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 34** (with s. 37) (which Act inserted s. 14B into 1958 c. 69).

**2 Tenancies which cannot be farm business tenancies.**

- (1) A tenancy cannot be a farm business tenancy for the purposes of this Act if—
- (a) the tenancy begins before 1st September 1995, or
  - (b) it is a tenancy of an agricultural holding beginning on or after that date with respect to which, by virtue of section 4 of this Act, the <sup>M1</sup>Agricultural Holdings Act 1986 applies.
- (2) In this section “agricultural holding” has the same meaning as in the <sup>M2</sup>Agricultural Holdings Act 1986.

**Marginal Citations**

**M1** 1986 c. 5.  
**M2** 1986 c. 5.

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### **3 Compliance with notice conditions in cases of surrender and re-grant.**

- (1) This section applies where—
- (a) a tenancy (“the new tenancy”) is granted to a person who, immediately before the grant, was the tenant under a farm business tenancy (“the old tenancy”) which met the notice conditions specified in section 1(4) of this Act,
  - (b) the condition in subsection (2) below or the condition in subsection (3) below is met, and
  - (c) except as respects the matters mentioned in subsections (2) and (3) below and matters consequential on them, the terms of the new tenancy are substantially the same as the terms of the old tenancy.
- (2) The first condition referred to in subsection (1)(b) above is that the land comprised in the new tenancy is the same as the land comprised in the old tenancy, apart from any changes in area which are small in relation to the size of the holding and do not affect the character of the holding.
- (3) The second condition referred to in subsection (1)(b) above is that the old tenancy and the new tenancy are both fixed term tenancies, but the term date under the new tenancy is earlier than the term date under the old tenancy.
- (4) Where this section applies, the new tenancy shall be taken for the purposes of this Act to meet the notice conditions specified in section 1(4) of this Act.
- (5) In subsection (3) above, “the term date”, in relation to a fixed term tenancy, means the date fixed for the expiry of the term.

#### *Exclusion of Agricultural Holdings Act 1986*

### **4 Agricultural Holdings Act 1986 not to apply in relation to new tenancies except in special cases.**

- (1) The <sup>M3</sup>Agricultural Holdings Act 1986 (in this section referred to as “the 1986 Act”) shall not apply in relation to any tenancy beginning on or after 1st September 1995 (including any agreement to which section 2 of that Act would otherwise apply beginning on or after that date), except any tenancy of an agricultural holding which—
- (a) is granted by a written contract of tenancy entered into before 1st September 1995 and indicating (in whatever terms) that the 1986 Act is to apply in relation to the tenancy,
  - (b) is obtained by virtue of a direction of an Agricultural Land Tribunal under section 39 or 53 of the 1986 Act,
  - (c) is granted (following a direction under section 39 of that Act) in circumstances falling within section 45(6) of that Act,
  - (d) is granted on an agreed succession by a written contract of tenancy indicating (in whatever terms) that Part IV of the 1986 Act is to apply in relation to the tenancy,
  - (e) is created by the acceptance of a tenant, in accordance with the provisions as to compensation known as the “Evesham custom” and set out in subsections (3) to (5) of section 80 of the 1986 Act, on the terms and conditions of the previous tenancy, or
  - (f) is granted to a person who, immediately before the grant of the tenancy, was the tenant of the holding, or of any agricultural holding which comprised

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the whole or a substantial part of the land comprised in the holding, under a tenancy in relation to which the 1986 Act applied (“the previous tenancy”) and is so granted merely because a purported variation of the previous tenancy (not being an agreement expressed to take effect as a new tenancy between the parties) has effect as an implied surrender followed by the grant of the tenancy.

- (2) For the purposes of subsection (1)(d) above, a tenancy (“the current tenancy”) is granted on an agreed succession if, and only if,—
- (a) the previous tenancy of the holding or a related holding was a tenancy in relation to which Part IV of the 1986 Act applied, and
  - (b) the current tenancy is granted otherwise than as mentioned in paragraph (b) or (c) of subsection (1) above but in such circumstances that if—
    - (i) Part IV of the 1986 Act applied in relation to the current tenancy, and
    - (ii) a sole (or sole surviving) tenant under the current tenancy were to die and be survived by a close relative of his,
 the occasion on which the current tenancy is granted would for the purposes of subsection (1) of section 37 of the 1986 Act be taken to be an occasion falling within paragraph (a) or (b) of that subsection.
- (3) In this section—
- (a) “agricultural holding” and “contract of tenancy” have the same meaning as in the 1986 Act, and
  - (b) “close relative” and “related holding” have the meaning given by section 35(2) of that Act.

#### Marginal Citations

M3 1986 c. 5.

### *Termination of the tenancy*

## 5 **Tenancies for more than two years to continue from year to year unless terminated by notice.**

- (1) A farm business tenancy for a term of more than two years shall, instead of terminating on the term date, continue (as from that date) as a tenancy from year to year, but otherwise on the terms of the original tenancy so far as applicable, unless at least twelve months but less than twenty-four months before the term date a written notice has been given by either party to the other of his intention to terminate the tenancy.
- (2) In subsection (1) above “the term date”, in relation to a fixed term tenancy, means the date fixed for the expiry of the term.
- (3) For the purposes of section 140 of the <sup>M4</sup>Law of Property Act 1925 (apportionment of conditions on severance of reversion), a notice under subsection (1) above shall be taken to be a notice to quit.
- (4) This section has effect notwithstanding any agreement to the contrary.

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#### Marginal Citations

M4 1925 c. 20.

### 6 Length of notice to quit.

- (1) Where a farm business tenancy is a tenancy from year to year, a notice to quit the holding or part of the holding shall (notwithstanding any provision to the contrary in the tenancy) be invalid unless—
  - (a) it is in writing,
  - (b) it is to take effect at the end of a year of the tenancy, and
  - (c) it is given at least twelve months but less than twenty-four months before the date on which it is to take effect.
- (2) Where, by virtue of section 5(1) of this Act, a farm business tenancy for a term of more than two years is to continue (as from the term date) as a tenancy from year to year, a notice to quit which complies with subsection (1) above and which is to take effect on the first anniversary of the term date shall not be invalid merely because it is given before the term date; and in this subsection “the term date” has the meaning given by section 5(2) of this Act.
- (3) Subsection (1) above does not apply in relation to a counter-notice given by the tenant by virtue of subsection (2) of section 140 of the <sup>M5</sup>Law of Property Act 1925 (apportionment of conditions on severance of reversion).

#### Marginal Citations

M5 1925 c. 20.

### 7 Notice required for exercise of option to terminate tenancy or resume possession of part.

- (1) Where a farm business tenancy is a tenancy for a term of more than two years, any notice to quit the holding or part of the holding given in pursuance of any provision of the tenancy shall (notwithstanding any provision to the contrary in the tenancy) be invalid unless it is in writing and is given at least twelve months but less than twenty-four months before the date on which it is to take effect.
- (2) Subsection (1) above does not apply in relation to a counter-notice given by the tenant by virtue of subsection (2) of section 140 of the <sup>M6</sup>Law of Property Act 1925 (apportionment of conditions on severance of reversion).
- (3) Subsection (1) above does not apply to a tenancy which, by virtue of subsection (6) of section 149 of the <sup>M7</sup>Law of Property Act 1925 (lease for life or lives or for a term determinable with life or lives or on the marriage of the lessee), takes effect as such a term of years as is mentioned in that subsection.

#### Marginal Citations

M6 1925 c. 20.

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M7 1925 c. 20.

### *Tenant's right to remove fixtures and buildings*

## 8 **Tenant's right to remove fixtures and buildings.**

- (1) Subject to the provisions of this section—
- (a) any fixture (of whatever description) affixed, whether for the purposes of agriculture or not, to the holding by the tenant under a farm business tenancy, and
  - (b) any building erected by him on the holding,
- may be removed by the tenant at any time during the continuance of the tenancy or at any time after the termination of the tenancy when he remains in possession as tenant (whether or not under a new tenancy), and shall remain his property so long as he may remove it by virtue of this subsection.
- (2) Subsection (1) above shall not apply—
- (a) to a fixture affixed or a building erected in pursuance of some obligation,
  - (b) to a fixture affixed or a building erected instead of some fixture or building belonging to the landlord,
  - (c) to a fixture or building in respect of which the tenant has obtained compensation under section 16 of this Act or otherwise, or
  - (d) to a fixture or building in respect of which the landlord has given his consent under section 17 of this Act on condition that the tenant agrees not to remove it and which the tenant has agreed not to remove.
- (3) In the removal of a fixture or building by virtue of subsection (1) above, the tenant shall not do any avoidable damage to the holding.
- (4) Immediately after removing a fixture or building by virtue of subsection (1) above, the tenant shall make good all damage to the holding that is occasioned by the removal.
- (5) This section applies to a fixture or building acquired by a tenant as it applies to a fixture or building affixed or erected by him.
- (6) Except as provided by subsection (2)(d) above, this section has effect notwithstanding any agreement or custom to the contrary.
- (7) No right to remove fixtures that subsists otherwise than by virtue of this section shall be exercisable by the tenant under a farm business tenancy.

## PART II

### RENT REVIEW UNDER FARM BUSINESS TENANCY

## 9 **Application of Part II.**

This Part of this Act applies in relation to a farm business tenancy (notwithstanding any agreement to the contrary) unless the tenancy is created by an instrument which—

- (a) expressly states that the rent is not to be reviewed during the tenancy, or

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- (b) provides that the rent is to be varied, at a specified time or times during the tenancy—
  - (i) by or to a specified amount, or
  - (ii) in accordance with a specified formula which does not preclude a reduction and which does not require or permit the exercise by any person of any judgment or discretion in relation to the determination of the rent of the holding,but otherwise is to remain fixed.

## **10 Notice requiring statutory rent review.**

- (1) The landlord or tenant under a farm business tenancy in relation to which this Part of this Act applies may by notice in writing given to the other (in this Part of this Act referred to as a “statutory review notice”) require that the rent to be payable in respect of the holding as from the review date shall be referred to arbitration in accordance with this Act.
- (2) In this Part of this Act “the review date”, in relation to a statutory review notice, means a date which—
  - (a) is specified in the notice, and
  - (b) complies with subsections (3) to (6) below.
- (3) The review date must be at least twelve months but less than twenty-four months after the day on which the statutory review notice is given.
- (4) If the parties have agreed in writing that the rent is to be, or may be, varied as from a specified date or dates, or at specified intervals, the review date must be a date as from which the rent could be varied under the agreement.
- (5) If the parties have agreed in writing that the review date for the purposes of this Part of this Act is to be a specified date or dates, the review date must be that date or one of those dates.
- (6) If the parties have not agreed as mentioned in subsection (4) or (5) above, the review date—
  - (a) must be an anniversary of the beginning of the tenancy or, where the landlord and the tenant have agreed in writing that the review date for the purposes of this Act is to be some other day of the year, that day of the year, and
  - (b) must not fall before the end of the period of three years beginning with the latest of any of the following dates—
    - (i) the beginning of the tenancy,
    - (ii) any date as from which there took effect a previous direction of an arbitrator as to the amount of the rent,
    - (iii) any date as from which there took effect a previous determination as to the amount of the rent made, otherwise than as arbitrator, by a person appointed under an agreement between the landlord and the tenant, and
    - (iv) any date as from which there took effect a previous agreement in writing between the landlord and the tenant, entered into since the grant of the tenancy, as to the amount of the rent.

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## **11 Review date where new tenancy of severed part of reversion.**

(1) This section applies in any case where a farm business tenancy (“the new tenancy”) arises between—

- (a) a person who immediately before the date of the beginning of the tenancy was entitled to a severed part of the reversionary estate in the land comprised in a farm business tenancy (“the original tenancy”) in which the land to which the new tenancy relates was then comprised, and
- (b) the person who immediately before that date was the tenant under the original tenancy,

and the rent payable under the new tenancy at its beginning represents merely the appropriate portion of the rent payable under the original tenancy immediately before the beginning of the new tenancy.

(2) In any case where this section applies—

- (a) references to the beginning of the tenancy in subsection (6) of section 10 of this Act shall be taken to be references to the beginning of the original tenancy, and
- (b) references to rent in that subsection shall be taken to be references to the rent payable under the original tenancy,

until the first occasion following the beginning of the new tenancy on which any such direction, determination or agreement with respect to the rent of the new holding as is mentioned in that subsection takes effect.

## **12 Appointment of arbitrator.**

Where a statutory review notice has been given in relation to a farm business tenancy, but—

- (a) no arbitrator has been appointed under an agreement made since the notice was given, and
- (b) no person has been appointed under such an agreement to determine the question of the rent (otherwise than as arbitrator) on a basis agreed by the parties,

either party may, at any time during the period of six months ending with the review date, apply to the President of the Royal Institution of Chartered Surveyors (in this Act referred to as “the RICS”) for the appointment of an arbitrator by him.

## **13 Amount of rent.**

(1) On any reference made in pursuance of a statutory review notice, the arbitrator shall determine the rent properly payable in respect of the holding at the review date and accordingly shall, with effect from that date, increase or reduce the rent previously payable or direct that it shall continue unchanged.

(2) For the purposes of subsection (1) above, the rent properly payable in respect of a holding is the rent at which the holding might reasonably be expected to be let on the open market by a willing landlord to a willing tenant, taking into account (subject to subsections (3) and (4) below) all relevant factors, including (in every case) the terms of the tenancy (including those which are relevant for the purposes of section 10(4) to (6) of this Act, but not those relating to the criteria by reference to which any new rent is to be determined).



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- (3) The arbitrator shall disregard any increase in the rental value of the holding which is due to tenant's improvements other than—
- (a) any tenant's improvement provided under an obligation which was imposed on the tenant by the terms of his tenancy or any previous tenancy and which arose on or before the beginning of the tenancy in question,
  - (b) any tenant's improvement to the extent that any allowance or benefit has been made or given by the landlord in consideration of its provision, and
  - (c) any tenant's improvement to the extent that the tenant has received any compensation from the landlord in respect of it.
- (4) The arbitrator—
- (a) shall disregard any effect on the rent of the fact that the tenant who is a party to the arbitration is in occupation of the holding, 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.
- (5) In this section “tenant's improvement”, and references to the provision of such an improvement, have the meaning given by section 15 of this Act.

**Modifications etc. (not altering text)**

- C2** S. 13 modified (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 20(5)** (with s. 37) (which Act inserted Sch. 7 para. 3A into 1958 c. 69).
- C3** S. 13(1)(2) modified (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 14** (with s. 37) (which Act inserted s. 14B into 1958 c. 69).

**14 Interpretation of Part II.**

In this Part of this Act, unless the context otherwise requires—

“the review date”, in relation to a statutory review notice, has the meaning given by section 10(2) of this Act;

“statutory review notice” has the meaning given by section 10(1) of this Act.

**PART III**

**COMPENSATION ON TERMINATION OF FARM BUSINESS TENANCY**

**Modifications etc. (not altering text)**

- C4** Pt. III (ss. 15-27) modified (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 16** (with s. 37) (which Act inserted s. 25A into 1958 c. 69).
- Pt. III (ss. 15-27) modified (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 20(2)** (with s. 37) (which Act inserted Sch. 7 para. 1A into 1958 c. 69).
- Pt. III (ss. 15-27) modified (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 20(4)** (with s. 37) (which Act inserted Sch. 7 para. 2A into 1958 c. 69).

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### *Tenant's entitlement to compensation*

#### **15 Meaning of “tenant’s improvement”.**

For the purposes of this Part of this Act a “tenant’s improvement”, in relation to any farm business tenancy, means—

- (a) any physical improvement which is made on the holding by the tenant by his own effort or wholly or partly at his own expense, or
- (b) any intangible advantage which—
  - (i) is obtained for the holding by the tenant by his own effort or wholly or partly at his own expense, and
  - (ii) becomes attached to the holding,

and references to the provision of a tenant’s improvement are references to the making by the tenant of any physical improvement falling within paragraph (a) above or the obtaining by the tenant of any intangible advantage falling within paragraph (b) above.

#### **16 Tenant’s right to compensation for tenant’s improvement.**

- (1) The tenant under a farm business tenancy shall, subject to the provisions of this Part of this Act, be entitled on the termination of the tenancy, on quitting the holding, to obtain from his landlord compensation in respect of any tenant’s improvement.
- (2) A tenant shall not be entitled to compensation under this section in respect of—
  - (a) any physical improvement which is removed from the holding, or
  - (b) any intangible advantage which does not remain attached to the holding.
- (3) Section 13 of, and Schedule 1 to, the <sup>M8</sup>Agriculture Act 1986 (compensation to outgoing tenants for milk quota) shall not apply in relation to a farm business tenancy.

#### **Marginal Citations**

**M8** [1986 c. 49.](#)

### *Conditions of eligibility*

#### **17 Consent of landlord as condition of compensation for tenant’s improvement.**

- (1) A tenant shall not be entitled to compensation under section 16 of this Act in respect of any tenant’s improvement unless the landlord has given his consent in writing to the provision of the tenant’s improvement.
- (2) Any such consent may be given in the instrument creating the tenancy or elsewhere.
- (3) Any such consent may be given either unconditionally or on condition that the tenant agrees to a specified variation in the terms of the tenancy.
- (4) The variation referred to in subsection (3) above must be related to the tenant’s improvement in question.
- (5) This section does not apply in any case where the tenant’s improvement consists of planning permission.

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## **18 Conditions in relation to compensation for planning permission.**

- (1) A tenant shall not be entitled to compensation under section 16 of this Act in respect of a tenant's improvement which consists of planning permission unless—
  - (a) the landlord has given his consent in writing to the making of the application for planning permission,
  - (b) that consent is expressed to be given for the purpose—
    - (i) of enabling a specified physical improvement falling within paragraph (a) of section 15 of this Act lawfully to be provided by the tenant, or
    - (ii) of enabling the tenant lawfully to effect a specified change of use, and
  - (c) on the termination of the tenancy, the specified physical improvement has not been completed or the specified change of use has not been effected.
- (2) Any such consent may be given either unconditionally or on condition that the tenant agrees to a specified variation in the terms of the tenancy.
- (3) The variation referred to in subsection (2) above must be related to the physical improvement or change of use in question.

## **19 Reference to arbitration of refusal or failure to give consent or of condition attached to consent.**

- (1) Where, in relation to any tenant's improvement, the tenant under a farm business tenancy is aggrieved by—
  - (a) the refusal of his landlord to give his consent under section 17(1) of this Act,
  - (b) the failure of his landlord to give such consent within two months of a written request by the tenant for such consent, or
  - (c) any variation in the terms of the tenancy required by the landlord as a condition of giving such consent,the tenant may by notice in writing given to the landlord demand that the question shall be referred to arbitration under this section; but this subsection has effect subject to subsections (2) and (3) below.
- (2) No notice under subsection (1) above may be given in relation to any tenant's improvement which the tenant has already provided or begun to provide, unless that improvement is a routine improvement.
- (3) No notice under subsection (1) above may be given—
  - (a) in a case falling within paragraph (a) or (c) of that subsection, after the end of the period of two months beginning with the day on which notice of the refusal or variation referred to in that paragraph was given to the tenant, or
  - (b) in a case falling within paragraph (b) of that subsection, after the end of the period of four months beginning with the day on which the written request referred to in that paragraph was given to the landlord.
- (4) Where the tenant has given notice under subsection (1) above but no arbitrator has been appointed under an agreement made since the notice was given, the tenant or the landlord may apply to the President of the RICS, subject to subsection (9) below, for the appointment of an arbitrator by him.

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- (5) The arbitrator shall consider whether, having regard to the terms of the tenancy and any other relevant circumstances (including the circumstances of the tenant and the landlord), it is reasonable for the tenant to provide the tenant's improvement.
- (6) Subject to subsection (9) below, the arbitrator may unconditionally approve the provision of the tenant's improvement or may withhold his approval, but may not give his approval subject to any condition or vary any condition required by the landlord under section 17(3) of this Act.
- (7) If the arbitrator gives his approval, that approval shall have effect for the purposes of this Part of this Act and for the purposes of the terms of the farm business tenancy as if it were the consent of the landlord.
- (8) In a case falling within subsection (1)(c) above, the withholding by the arbitrator of his approval shall not affect the validity of the landlord's consent or of the condition subject to which it was given.
- (9) Where, at any time after giving a notice under subsection (1) above in relation to any tenant's improvement which is not a routine improvement, the tenant begins to provide the improvement—
- (a) no application may be made under subsection (4) above after that time,
  - (b) where such an application has been made but no arbitrator has been appointed before that time, the application shall be ineffective, and
  - (c) no award may be made by virtue of subsection (6) above after that time except as to the costs of the reference and award in a case where the arbitrator was appointed before that time.
- (10) For the purposes of this section—
- “fixed equipment” includes any building or structure affixed to land and any works constructed on, in, over or under land, and also includes anything grown on land for a purpose other than use after severance from the land, consumption of the thing grown or its produce, or amenity;
- “routine improvement”, in relation to a farm business tenancy, means any tenant's improvement which—
- (a) is a physical improvement made in the normal course of farming the holding or any part of the holding, and
  - (b) does not consist of fixed equipment or an improvement to fixed equipment,
- but does not include any improvement whose provision is prohibited by the terms of the tenancy.

#### *Amount of compensation*

### **20 Amount of compensation for tenant's improvement not consisting of planning permission.**

- (1) The amount of compensation payable to the tenant under section 16 of this Act in respect of any tenant's improvement shall be an amount equal to the increase attributable to the improvement in the value of the holding at the termination of the tenancy as land comprised in a tenancy.

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- (2) Where the landlord and the tenant have entered into an agreement in writing whereby any benefit is given or allowed to the tenant in consideration of the provision of a tenant's improvement, the amount of compensation otherwise payable in respect of that improvement shall be reduced by the proportion which the value of the benefit bears to the amount of the total cost of providing the improvement.
- (3) Where a grant has been or will be made to the tenant out of public money in respect of a tenant's improvement, the amount of compensation otherwise payable in respect of that improvement shall be reduced by the proportion which the amount of the grant bears to the amount of the total cost of providing the improvement.
- (4) Where a physical improvement which has been completed or a change of use which has been effected is authorised by any planning permission granted on an application made by the tenant, section 18 of this Act does not prevent any value attributable to the fact that the physical improvement or change of use is so authorised from being taken into account under this section in determining the amount of compensation payable in respect of the physical improvement or in respect of any intangible advantage obtained as a result of the change of use.
- (5) This section does not apply where the tenant's improvement consists of planning permission.

## **21 Amount of compensation for planning permission.**

- (1) The amount of compensation payable to the tenant under section 16 of this Act in respect of a tenant's improvement which consists of planning permission shall be an amount equal to the increase attributable to the fact that the relevant development is authorised by the planning permission in the value of the holding at the termination of the tenancy as land comprised in a tenancy.
- (2) In subsection (1) above, "the relevant development" means the physical improvement or change of use specified in the landlord's consent under section 18 of this Act in accordance with subsection (1)(b) of that section.
- (3) Where the landlord and the tenant have entered into an agreement in writing whereby any benefit is given or allowed to the tenant in consideration of the obtaining of planning permission by the tenant, the amount of compensation otherwise payable in respect of that permission shall be reduced by the proportion which the value of the benefit bears to the amount of the total cost of obtaining the permission.

## **22 Settlement of claims for compensation.**

- (1) Any claim by the tenant under a farm business tenancy for compensation under section 16 of this Act shall, subject to the provisions of this section, be determined by arbitration under this section.
- (2) No such claim for compensation shall be enforceable unless before the end of the period of two months beginning with the date of the termination of the tenancy the tenant has given notice in writing to his landlord of his intention to make the claim and of the nature of the claim.
- (3) Where—
  - (a) the landlord and the tenant have not settled the claim by agreement in writing, and

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- (b) no arbitrator has been appointed under an agreement made since the notice under subsection (2) above was given,
- either party may, after the end of the period of four months beginning with the date of the termination of the tenancy, apply to the President of the RICS for the appointment of an arbitrator by him.
- (4) Where—
- (a) an application under subsection (3) above relates wholly or partly to compensation in respect of a routine improvement (within the meaning of section 19 of this Act) which the tenant has provided or has begun to provide, and
- (b) that application is made at the same time as an application under section 19(4) of this Act relating to the provision of that improvement,
- the President of the RICS shall appoint the same arbitrator on both applications and, if both applications are made by the same person, only one fee shall be payable by virtue of section 30(2) of this Act in respect of them.
- (5) Where a tenant lawfully remains in occupation of part of the holding after the termination of a farm business tenancy, references in subsections (2) and (3) above to the termination of the tenancy shall, in the case of a claim relating to that part of the holding, be construed as references to the termination of the occupation.

**Modifications etc. (not altering text)**

**C5** S. 22 restricted (1.9.1995) by 1995 c. 8, ss. 40, 41(2) Sch. para. 16 (with s. 37) (which Act inserted s. 25A into 1958 c. 69).

*Supplementary provisions with respect to compensation*

**23 Successive tenancies.**

- (1) Where the tenant under a farm business tenancy has remained in the holding during two or more such tenancies, he shall not be deprived of his right to compensation under section 16 of this Act by reason only that any tenant's improvement was provided during a tenancy other than the one at the termination of which he quits the holding.
- (2) The landlord and tenant under a farm business tenancy may agree that the tenant is to be entitled to compensation under section 16 of this Act on the termination of the tenancy even though at that termination the tenant remains in the holding under a new tenancy.
- (3) Where the landlord and the tenant have agreed as mentioned in subsection (2) above in relation to any tenancy ("the earlier tenancy"), the tenant shall not be entitled to compensation at the end of any subsequent tenancy in respect of any tenant's improvement provided during the earlier tenancy in relation to the land comprised in the earlier tenancy.

**24 Resumption of possession of part of holding.**

- (1) Where—

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- (a) the landlord under a farm business tenancy resumes possession of part of the holding in pursuance of any provision of the tenancy, or
- (b) a person entitled to a severed part of the reversionary estate in a holding held under a farm business tenancy resumes possession of part of the holding by virtue of a notice to quit that part given to the tenant by virtue of section 140 of the <sup>M9</sup>Law of Property Act 1925,

the provisions of this Part of this Act shall, subject to subsections (2) and (3) below, apply to that part of the holding (in this section referred to as “the relevant part”) as if it were a separate holding which the tenant had quitted in consequence of a notice to quit and, in a case falling within paragraph (b) above, as if the person resuming possession were the landlord of that separate holding.

- (2) The amount of compensation payable to the tenant under section 16 of this Act in respect of any tenant’s improvement provided for the relevant part by the tenant and not consisting of planning permission shall, subject to section 20(2) to (4) of this Act, be an amount equal to the increase attributable to the tenant’s improvement in the value of the original holding on the termination date as land comprised in a tenancy.
- (3) The amount of compensation payable to the tenant under section 16 of this Act in respect of any tenant’s improvement which consists of planning permission relating to the relevant part shall, subject to section 21(3) of this Act, be an amount equal to the increase attributable to the fact that the relevant development is authorised by the planning permission in the value of the original holding on the termination date as land comprised in a tenancy.
- (4) In a case falling within paragraph (a) or (b) of subsection (1) above, sections 20 and 21 of this Act shall apply on the termination of the tenancy, in relation to the land then comprised in the tenancy, as if the reference in subsection (1) of each of those sections to the holding were a reference to the original holding.
- (5) In subsections (2) to (4) above—
  - “the original holding” means the land comprised in the farm business tenancy—
    - (a) on the date when the landlord gave his consent under section 17 or 18 of this Act in relation to the tenant’s improvement, or
    - (b) where approval in relation to the tenant’s improvement was given by an arbitrator, on the date on which that approval was given,
  - “the relevant development”, in relation to any tenant’s improvement which consists of planning permission, has the meaning given by section 21(2) of this Act, and
  - “the termination date” means the date on which possession of the relevant part was resumed.

#### Marginal Citations

M9 1925 c. 20.

## 25 Compensation where reversionary estate in holding is severed.

- (1) Where the reversionary estate in the holding comprised in a farm business tenancy is for the time being vested in more than one person in several parts, the tenant shall be entitled, on quitting the entire holding, to require that any compensation payable

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to him under section 16 of this Act shall be determined as if the reversionary estate were not so severed.

- (2) Where subsection (1) applies, the arbitrator shall, where necessary, apportion the amount awarded between the persons who for the purposes of this Part of this Act together constitute the landlord of the holding, and any additional costs of the award caused by the apportionment shall be directed by the arbitrator to be paid by those persons in such proportions as he shall determine.

## 26 Extent to which compensation recoverable under agreements.

- (1) In any case for which apart from this section the provisions of this Part of this Act provide for compensation, a tenant shall be entitled to compensation in accordance with those provisions and not otherwise, and shall be so entitled notwithstanding any agreement to the contrary.
- (2) Nothing in the provisions of this Part of this Act, apart from this section, shall be construed as disentitling a tenant to compensation in any case for which those provisions do not provide for compensation.

## 27 Interpretation of Part III.

In this Part of this Act, unless the context otherwise requires—

“planning permission” has the meaning given by section 336(1) of the <sup>M10</sup>Town and Country Planning Act 1990;

“tenant’s improvement”, and references to the provision of such an improvement, have the meaning given by section 15 of this Act.

### Marginal Citations

M10 1990 c. 8.

## PART IV

### MISCELLANEOUS AND SUPPLEMENTAL

#### *Resolution of disputes*

## 28 Resolution of disputes.

- (1) Subject to subsections (4) and (5) below and to section 29 of this Act, any dispute between the landlord and the tenant under a farm business tenancy, being a dispute concerning their rights and obligations under this Act, under the terms of the tenancy or under any custom, shall be determined by arbitration.
- (2) Where such a dispute has arisen, the landlord or the tenant may give notice in writing to the other specifying the dispute and stating that, unless before the end of the period of two months beginning with the day on which the notice is given the parties have appointed an arbitrator by agreement, he proposes to apply to the President of the RICS for the appointment of an arbitrator by him.



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- (3) Where a notice has been given under subsection (2) above, but no arbitrator has been appointed by agreement, either party may, after the end of the period of two months referred to in that subsection, apply to the President of the RICS for the appointment of an arbitrator by him.
- (4) Subsection (1) above does not affect the jurisdiction of the courts, except to the extent provided by section 4(1) of the <sup>M11</sup>Arbitration Act 1950 (staying of court proceedings where there is submission to arbitration), as applied to statutory arbitrations by section 31 of that Act.
- (5) Subsections (1) to (3) above do not apply in relation to—
  - (a) the determination of rent in pursuance of a statutory review notice (as defined in section 10(1) of this Act),
  - (b) any case falling within section 19(1) of this Act, or
  - (c) any claim for compensation under Part III of this Act.

**Marginal Citations**

**M11** 1950 c. 27.

**29 Cases where right to refer claim to arbitration under section 28 does not apply.**

- (1) Section 28 of this Act does not apply in relation to any dispute if—
  - (a) the tenancy is created by an instrument which includes provision for disputes to be resolved by any person other than—
    - (i) the landlord or the tenant, or
    - (ii) a third party appointed by either of them without the consent or concurrence of the other, and
  - (b) either of the following has occurred—
    - (i) the landlord and the tenant have jointly referred the dispute to the third party under the provision, or
    - (ii) the landlord or the tenant has referred the dispute to the third party under the provision and notified the other in writing of the making of the reference, the period of four weeks beginning with the date on which the other was so notified has expired and the other has not given a notice under section 28(2) of this Act in relation to the dispute before the end of that period.
- (2) For the purposes of subsection (1) above, a term of the tenancy does not provide for disputes to be “resolved” by any person unless that person (whether or not acting as arbitrator) is enabled under the terms of the tenancy to give a decision which is binding in law on both parties.

**30 General provisions applying to arbitrations under Act.**

- (1) Any matter which is required to be determined by arbitration under this Act shall be determined by the arbitration of a sole arbitrator.
- (2) Any application under this Act to the President of the RICS for the appointment of an arbitrator by him must be made in writing and must be accompanied by such

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reasonable fee as the President may determine in respect of the costs of making the appointment.

- (3) Where an arbitrator appointed for the purposes of this Act dies or is incapable of acting and no new arbitrator has been appointed by agreement, either party may apply to the President of the RICS for the appointment of a new arbitrator by him.

### *Miscellaneous*

## **31 Mortgages of agricultural land.**

- (1) Section 99 of the <sup>M12</sup>Law of Property Act 1925 (leasing powers of mortgagor and mortgagee in possession) shall be amended in accordance with subsections (2) and (3) below.
- (2) At the beginning of subsection (13), there shall be inserted “ Subject to subsection (13A) below, ”.
- (3) After that subsection, there shall be inserted—
- “(13A) Subsection (13) of this section—
- (a) shall not enable the application of any provision of this section to be excluded or restricted in relation to any mortgage of agricultural land made after 1st March 1948 but before 1st September 1995, and
- (b) shall not enable the power to grant a lease of an agricultural holding to which, by virtue of section 4 of the Agricultural Tenancies Act 1995, the Agricultural Holdings Act 1986 will apply, to be excluded or restricted in relation to any mortgage of agricultural land made on or after 1st September 1995.
- (13B) In subsection (13A) of this section—
- “agricultural holding” has the same meaning as in the Agricultural Holdings Act 1986; and
- “agricultural land” has the same meaning as in the Agriculture Act 1947.”
- (4) Paragraph 12 of Schedule 14 to the Agricultural Holdings Act 1986 (which excludes the application of subsection (13) of section 99 of the <sup>M13</sup>Law of Property Act 1925 in relation to a mortgage of agricultural land and is superseded by the amendments made by subsections (1) to (3) above) shall cease to have effect.

#### **Marginal Citations**

**M12** 1925 c. 20.

**M13** 1986 c. 5.

## **32 Power of limited owners to give consents etc.**

The landlord under a farm business tenancy, whatever his estate or interest in the holding, may, for the purposes of this Act, give any consent, make any agreement or do or have done to him any other act which he might give, make, do or have done to

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him if he were owner in fee simple or, if his interest is an interest in a leasehold, were absolutely entitled to that leasehold.

### 33 Power to apply and raise capital money.

(1) The purposes authorised by section 73 of the Settled Land Act 1925 (either as originally enacted or as applied in relation to trusts for sale by section 28 of the Law of Property Act 1925) or section 26 of the <sup>M14</sup>Universities and College Estates Act 1925 for the application of capital money shall include—

- (a) the payment of expenses incurred by a landlord under a farm business tenancy in, or in connection with, the making of any physical improvement on the holding,
- (b) the payment of compensation under section 16 of this Act, and
- (c) the payment of the costs, charges and expenses incurred by him on a reference to arbitration under section 19 or 22 of this Act.

(2) The purposes authorised by section 71 of the Settled Land Act 1925 (either as originally enacted or as applied in relation to trusts for sale by section 28 of the <sup>M15</sup>Law of Property Act 1925) as purposes for which money may be raised by mortgage shall include the payment of compensation under section 16 of this Act.

(3) Where the landlord under a farm business tenancy—

- (a) is a tenant for life or in a fiduciary position, and
- (b) is liable to pay compensation under section 16 of this Act,

he may require the sum payable as compensation and any costs, charges and expenses incurred by him in connection with the tenant’s claim under that section to be paid out of any capital money held on the same trusts as the settled land.

(4) In subsection (3) above—

“capital money” includes any personal estate held on the same trusts as the land; and

“settled land” includes land held on trust for sale or vested in a personal representative.

#### Marginal Citations

M14 1925 c. 18.

M15 1925 c. 18.

### 34 Estimation of best rent for purposes of Acts and other instruments.

(1) In estimating the best rent or reservation in the nature of rent of land comprised in a farm business tenancy for the purposes of a relevant instrument, it shall not be necessary to take into account against the tenant any increase in the value of that land arising from any tenant’s improvements.

(2) In subsection (1) above—

“a relevant instrument” means any Act of Parliament, deed or other instrument which authorises a lease to be made on the condition that the best rent or reservation in the nature of rent is reserved;

“tenant’s improvement” has the meaning given by section 15 of this Act.

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### 35 Preparation of documents etc. by valuers and surveyors.

- (1) Section 22 of the <sup>M16</sup>Solicitors Act 1974 (unqualified person not to prepare certain instruments) shall be amended as follows.
- (2) In subsection (2), after paragraph (ab) there shall be inserted—
  - “(ac) any accredited person drawing or preparing any instrument—
    - (i) which creates, or which he believes on reasonable grounds will create, a farm business tenancy (within the meaning of the Agricultural Tenancies Act 1995), or
    - (ii) which relates to an existing tenancy which is, or which he believes on reasonable grounds to be, such a tenancy;”.
- (3) In subsection (3A), immediately before the definition of “registered trade mark agent” there shall be inserted—
  - ““accredited person” means any person who is—
    - (a) a Full Member of the Central Association of Agricultural Valuers,
    - (b) an Associate or Fellow of the Incorporated Society of Valuers and Auctioneers, or
    - (c) an Associate or Fellow of the Royal Institution of Chartered Surveyors;”.

#### Marginal Citations

M16 1974 c. 47.

### *Supplemental*

### 36 Service of notices.

- (1) This section applies to any notice or other document required or authorised to be given under this Act.
- (2) A notice or other document to which this section applies is duly given to a person if—
  - (a) it is delivered to him,
  - (b) it is left at his proper address, or
  - (c) it is given to him in a manner authorised by a written agreement made, at any time before the giving of the notice, between him and the person giving the notice.
- (3) A notice or other document to which this section applies is not duly given to a person if its text is transmitted to him by facsimile or other electronic means otherwise than by virtue of subsection (2)(c) above.
- (4) Where a notice or other document to which this section applies is to be given to a body corporate, the notice or document is duly given if it is given to the secretary or clerk of that body.
- (5) Where—

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- (a) a notice or other document to which this section applies is to be given to a landlord under a farm business tenancy and an agent or servant of his is responsible for the control of the management of the holding, or
- (b) such a document is to be given to a tenant under a farm business tenancy and an agent or servant of his is responsible for the carrying on of a business on the holding,

the notice or document is duly given if it is given to that agent or servant.

- (6) For the purposes of this section, the proper address of any person to whom a notice or other document to which this section applies is to be given is—
  - (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body, and
  - (b) in any other case, the last known address of the person in question.
- (7) Unless or until the tenant under a farm business tenancy has received—
  - (a) notice that the person who before that time was entitled to receive the rents and profits of the holding (“the original landlord”) has ceased to be so entitled, and
  - (b) notice of the name and address of the person who has become entitled to receive the rents and profits,

any notice or other document given to the original landlord by the tenant shall be deemed for the purposes of this Act to have been given to the landlord under the tenancy.

### **37 Crown land.**

- (1) This Act shall apply in relation to land in which there subsists, or has at any material time subsisted, a Crown interest as it applies in relation to land in which no such interest subsists or has ever subsisted.
- (2) For the purposes of this Act—
  - (a) where an interest belongs to Her Majesty in right of the Crown and forms part of the Crown Estate, the Crown Estate Commissioners shall be treated as the owner of the interest,
  - (b) where an interest belongs to Her Majesty in right of the Crown and does not form part of the Crown Estate, the government department having the management of the land or, if there is no such department, such person as Her Majesty may appoint in writing under the Royal Sign Manual shall be treated as the owner of the interest,
  - (c) where an interest belongs to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy shall be treated as the owner of the interest,
  - (d) where an interest belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department shall be treated as the owner of the interest, and
  - (e) where an interest belongs to the Duchy of Cornwall, such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints shall be treated as the owner of the interest and, in the case where the interest is that of landlord, may do any act or thing which a landlord is authorised or required to do under this Act.
- (3) If any question arises as to who is to be treated as the owner of a Crown interest, that question shall be referred to the Treasury, whose decision shall be final.

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- (4) In subsections (1) and (3) above “Crown interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.
- (5) Any compensation payable under section 16 of this Act by the Chancellor of the Duchy of Lancaster may be raised and paid under section 25 of the <sup>M17</sup>Duchy of Lancaster Act 1817 (application of monies) as an expense incurred in improvement of land belonging to Her Majesty in right of the Duchy.
- (6) In the case of land belonging to the Duchy of Cornwall, the purposes authorised by section 8 of the <sup>M18</sup>Duchy of Cornwall Management Act 1863 (application of monies) for the advancement of parts of such gross sums as are there mentioned shall include the payment of compensation under section 16 of this Act.
- (7) Nothing in subsection (6) above shall be taken as prejudicing the operation of the <sup>M19</sup>Duchy of Cornwall Management Act 1982.

#### Marginal Citations

**M17** 1817 c. 97.

**M18** 1863 c. 49.

**M19** 1982 c. 47.

## 38 Interpretation.

- (1) In this Act, unless the context otherwise requires—
- “agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;
  - “building” includes any part of a building;
  - “fixed term tenancy” means any tenancy other than a periodic tenancy;
  - “holding”, in relation to a farm business tenancy, means the aggregate of the land comprised in the tenancy;
  - “landlord” includes any person from time to time deriving title from the original landlord;
  - “livestock” includes any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of land;
  - “the RICS” means the Royal Institution of Chartered Surveyors;
  - “tenancy” means any tenancy other than a tenancy at will, and includes a sub-tenancy and an agreement for a tenancy or sub-tenancy;
  - “tenant” includes a sub-tenant and any person deriving title from the original tenant or sub-tenant;
  - “termination”, in relation to a tenancy, means the cesser of the tenancy by reason of effluxion of time or from any other cause.
- (2) References in this Act to the farming of land include references to the carrying on in relation to land of any agricultural activity.

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- (3) A tenancy granted pursuant to a contract shall be taken for the purposes of this Act to have been granted when the contract was entered into.
- (4) For the purposes of this Act a tenancy begins on the day on which, under the terms of the tenancy, the tenant is entitled to possession under that tenancy; and references in this Act to the beginning of the tenancy are references to that day.
- (5) The designations of landlord and tenant shall continue to apply until the conclusion of any proceedings taken under this Act in respect of compensation.

### **39 Index of defined expressions.**

In this Act the expressions listed below are defined by or otherwise fall to be construed in accordance with the provisions indicated—

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agriculture, agricultural	section 38(1)
begins, beginning (in relation to a tenancy)	section 38(4)
building	section 38(1)
farm business tenancy	section 1
farming (of land)	section 38(2)
fixed term tenancy	section 38(1)
grant (of a tenancy)	section 38(3)
holding (in relation to a farm business tenancy)	section 38(1)
landlord	section 38(1) and (5)
livestock	section 38(1)
planning permission (in Part III)	section 27
provision (of a tenant's improvement) (in Part III)	section 15
the review date (in Part II)	section 10(2)
the RICS	section 38(1)
statutory review notice (in Part II)	section 10(1)
tenancy	section 38(1)
tenant	section 38(1) and (5)
tenant's improvement (in Part III)	section 15
termination (of a tenancy)	section 38(1).

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### **40 Consequential amendments.**

The Schedule to this Act (which contains consequential amendments) shall have effect.

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**41 Short title, commencement and extent.**

- (1) This Act may be cited as the Agricultural Tenancies Act 1995.
- (2) This Act shall come into force on 1st September 1995.
- (3) Subject to subsection (4) below, this Act extends to England and Wales only.
- (4) The amendment by a provision of the Schedule to this Act of an enactment which extends to Scotland or Northern Ireland also extends there, except that paragraph 9 of the Schedule does not extend to Northern Ireland.



**Status:**

Point in time view as at 01/09/1995.

**Changes to legislation:**

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