



Agricultural Tenancies Act 1995

1995 CHAPTER 8

PART IV **E+W**

MISCELLANEOUS AND SUPPLEMENTAL

Resolution of disputes

28 Resolution of disputes. **E+W**

- (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.
- (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 ^{M1}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

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- (c) any claim for compensation under Part III of this Act.

Marginal Citations

M1 1950 c. 27.

29 Cases where right to refer claim to arbitration under section 28 does not apply. E+W

- (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. E+W

- (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 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. E+W

- (1) Section 99 of the ^{M2}Law of Property Act 1925 (leasing powers of mortgagor and mortgagee in possession) shall be amended in accordance with subsections (2) and (3) below.

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(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 ^{M3}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

M2 1925 c. 20.

M3 1986 c. 5.

32 Power of limited owners to give consents etc. **E+W**

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 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. **E+W**

(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 ^{M4}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.

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- (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 ^{M5}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

- M4 1925 c. 18.
 M5 1925 c. 18.

34 Estimation of best rent for purposes of Acts and other instruments. E+W

- (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.

35 Preparation of documents etc. by valuers and surveyors. E+W

- (1) Section 22 of the ^{M6}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—

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“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

M6 1974 c. 47.

Supplemental

36 Service of notices. **E+W**

- (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—
 - (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

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- (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. E+W

- (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.
- (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 ^{M7}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 ^{M8}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 ^{M9}Duchy of Cornwall Management Act 1982.

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Marginal Citations

M7 1817 c. 97.

M8 1863 c. 49.

M9 1982 c. 47.

38 Interpretation. **E+W**

- (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.
- (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. **E+W**

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

agriculture, agricultural

section 38(1)

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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).

40 Consequential amendments. E+W

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

41 Short title, commencement and extent. E+W

- (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.

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