

## **DEREGULATION ACT 2015**

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### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS**

#### ***Schedule 4: Agricultural Holdings Act 1986: resolution of disputes by third party determination***

537. The Agricultural Holdings Act 1986 (the “1986 Act”) governs agricultural tenancies entered into before 1 September 1995 and also applies to certain tenancies granted after that date. The 1986 Act refers disputes between the landlord and tenant to the First-tier Tribunal in England or the Agricultural Land Tribunal in Wales, arbitration or the courts.
538. Most disputes, particularly those governed by practical agricultural considerations, are currently compulsorily referable to arbitration under the 1986 Act. In some situations the 1986 Act also provides for a system of notice of referral to arbitration by one party to the other and time limits for actions to be taken. For example, in rent reviews under section 12 of the 1986 Act a notice of referral to arbitration must be served at least 12 months in advance of the next termination date, thereafter the arbitrator must be appointed by the parties or an application to the Royal Institute of Chartered Surveyors for appointment of the arbitrator must be made by one of the parties before the next termination date of the tenancy otherwise the notice of referral will become invalid.
539. This Schedule amends the 1986 Act to provide for disputes, other than those regarding notices to quit a tenancy, which are referable to arbitration to be capable of determination by a jointly appointed third party; for example rent reviews which form the majority of arbitration cases. Under the provisions the parties have autonomy to select the third party best suited to determine their dispute and to agree the terms and conditions of that appointment including timeframes and process. The notice requirements and time limits applicable to arbitration under the 1986 Act will not apply to third party determination.
540. These provisions bring the 1986 Act more in line with the Agricultural Tenancies Act 1995 (which governs Farm Business Tenancies entered into on or after 1 September 1995) regarding dispute resolution providing greater consistency across all existing agricultural tenancies in the way disputes may be resolved. The provisions are deregulatory and reduce the burden on agricultural landlords and tenants governed by the 1986 Act by providing an alternative mechanism for dispute resolution to the existing prescribed option of arbitration.
541. The Schedule inserts a new section 84A in the 1986 Act to make provision about third party determination and its interplay with arbitration, namely that parties who wish to refer a matter for third party determination must jointly appoint the third party, that the parties cannot make such a referral if they have appointed an arbitrator to determine the matter and that where the matter has been referred to third party determination the matter may not be determined by arbitration unless the third party appointed to determine the matter dies or is incapable of acting.

*These notes refer to the Deregulation Act 2015 (c.20)  
which received Royal Assent on 26 March 2015*

542. The Schedule also amends various of the provisions of the 1986 Act to provide for particular disputes to be capable of being referred for third party determination, rather than to arbitration, and to provide for the third party to have the same powers and be subject to the same duties as an arbitrator would have been.
543. The Schedule retains the current frequency of a demand or reference to arbitration in relation to sections 8 (arbitration where terms of written agreement are inconsistent with the section 7 model sections) and 12 (arbitration of rent) of the 1986 Act, namely the expiry of a three year period from a previous award or direction of an arbitrator or third party. The frequency of third party determinations is not so restricted.
544. [Section 13](#) and Schedule 4 form part of the law of England and Wales. They come into force on the day on which the Act is passed so far as is necessary for enabling subordinate legislation to be made. They come into force for remaining purposes at the end of the period of 2 months beginning with the day on which the Act is passed.