

SCHEDULES

SCHEDULE 3

Section 36

AGRICULTURAL TENANCIES

PART 1

AMENDMENTS TO THE AGRICULTURAL HOLDINGS ACT 1986

Introductory

- 1 The Agricultural Holdings Act 1986 is amended as follows.

Notices relating to third party determination of rent

- 2 (1) Section 12 (arbitration or third party determination of rent) is amended as follows.
- (2) In subsection (1) for “referred to arbitration under this Act” substitute “determined in accordance with this section”.
- (3) For subsection (1A) substitute—
- “(1A) Where a notice under subsection (1) is served, the question of how much rent is to be payable in respect of the holding as from the next termination date—
- (a) may be required by the landlord or tenant to be determined by arbitration under this Act (see section 84), or
- (b) may be referred by the landlord and tenant for third party determination under this Act (see section 84A).”
- (4) In subsection (2), for the words from “demand” to “third party determination” substitute “notice under subsection (1)”.
- (5) In subsection (3)—
- (a) for “demand for arbitration under this section” substitute “notice under subsection (1)”;
- (b) for “the demand” substitute “the notice”;
- (c) in paragraph (a), after “arbitrator” insert “or third party”.
- (6) In subsection (4)—
- (a) omit the words from “in relation to” to “third party determination”;
- (b) for the first “the demand or reference” substitute “a notice under subsection (1)”;
- (c) for the second “the demand or reference” substitute “the notice”;
- (d) for the third “the demand or reference” substitute “the notice under subsection (1)”.

Status: This is the original version (as it was originally enacted).

- 3 (1) Schedule 2 (arbitration or third party determination of rent: provisions supplementary to section 12) is amended as follows.
- (2) In the italic heading before paragraph 4, for “arbitrations” substitute “determinations”.
- (3) In paragraph 4, in sub-paragraph (1)—
- (a) for “demand for arbitration” substitute “notice under section 12(1) of this Act”;
 - (b) for “the demand” substitute “the notice”.

Appointment of arbitrators etc

- 4 In section 12 (arbitration or third party determination of rent), in subsection (3)(b), for the words from “to the” to “by him” substitute “under section 84 for the appointment of an arbitrator”.
- 5 (1) Section 22 (rights to require certain records to be made) is amended as follows.
- (2) In subsection (2), for the words from “in default” to “so appointed” substitute “by the landlord and tenant (“the parties”) or, in default of agreement between the parties, by a person appointed by a professional authority on the application of either of them; and any person appointed by a professional authority”.
- (3) After subsection (2) insert—
- “(2A) A party may not make an application to a professional authority under subsection (2) in any case if the other party has already made an application to a professional authority under that subsection in that case.”
- (4) In subsection (4)—
- (a) for “the President” substitute “a professional authority”;
 - (b) for “him” substitute “that authority”.
- (5) In subsection (5)—
- (a) for the first “the President” substitute “a professional authority”;
 - (b) for the second “the President” substitute “that authority”.
- (6) After subsection (5) insert—
- “(6) In this section “professional authority” has the same meaning as in section 84.”
- 6 (1) Section 84 (arbitrations) is amended as follows.
- (2) In subsection (2), for “the President of the RICS” substitute “a professional authority”.
- (3) After subsection (2) insert—
- “(2A) A party may not make an application to a professional authority under subsection (2) in relation to a matter if the other party has already made an application to a professional authority under that subsection in relation to that matter.”
- (4) In subsection (4)—
- (a) for “the President of the RICS” substitute “a professional authority”;

(b) for “him”, in both places, substitute “that authority”.

(5) For subsection (6) substitute—

“(6) In this section “professional authority” means—

- (a) the President of the Royal Institution of Chartered Surveyors,
- (b) the President of the Central Association of Agricultural Valuers, or
- (c) the Chair of the Agricultural Law Association.

(7) The appropriate authority may by regulations amend this section so as to—

- (a) include a person in, or remove a person from, the definition of “professional authority”;
- (b) reflect changes in the name or internal organisation of any body mentioned in that definition.

(8) In subsection (7) “appropriate authority” means—

- (a) the Secretary of State, in relation to England, and
- (b) the Welsh Ministers, in relation to Wales.”

Requests for landlord’s consent or variation of terms

7 Before section 20 insert—

“19A Disputes relating to requests for landlord’s consent or variation of terms

(1) The appropriate authority may by regulations make provision for the tenant of an agricultural holding to refer for arbitration under this Act a request made by the tenant to the landlord where—

- (a) the request falls within subsection (3), and
- (b) no agreement has been reached with the landlord on the request.

(2) The regulations may also provide that, where the tenant is given the right to refer a request to arbitration, the landlord and tenant may instead refer the request for third party determination under this Act.

(3) A request falls within this subsection if—

- (a) it is a request for—
 - (i) the landlord’s consent to a matter which under the terms of the tenancy requires such consent, or
 - (ii) a variation of the terms of the tenancy,
- (b) it is made for the purposes of—
 - (i) enabling the tenant to request or apply for relevant financial assistance or relevant financial assistance of a description specified in the regulations, or
 - (ii) complying with a statutory duty, or a statutory duty of a description specified in the regulations, applicable to the tenant, and
- (c) it meets such other conditions (if any) as may be specified in the regulations.

Status: This is the original version (as it was originally enacted).

- (4) The regulations may provide for the arbitrator or third party on a reference made under the regulations, where the arbitrator or third party considers it reasonable and just (as between the landlord and tenant) to do so—
- (a) to order the landlord to comply with the request (either in full or to the extent specified in the award or determination);
 - (b) to make any other award or determination permitted by the regulations.
- (5) The regulations may (among other things) make provision—
- (a) about conditions to be met before a reference may be made;
 - (b) about matters which an arbitrator or third party is to take into account when considering a reference;
 - (c) for regulating the conduct of arbitrations or third party determinations;
 - (d) about the awards or determinations which may be made by the arbitrator or third party, which may include making an order for a variation in the rent of the holding or for the payment of compensation or costs;
 - (e) about the time at which, or the conditions subject to which, an award or determination may be expressed to take effect;
 - (f) for restricting a tenant’s ability to make subsequent references to arbitration where a reference to arbitration or third party determination has already been made under the regulations in relation to the same tenancy.
- (6) The provision covered by subsection (5)(e) includes, in the case of a request made for the purpose described in subsection (3)(b)(i), conditions relating to the making of a successful application for assistance.
- (7) In this section—
- “appropriate authority” means—
- (a) in relation to England, the Secretary of State, and
 - (b) in relation to Wales, the Welsh Ministers;
- “relevant financial assistance” means financial assistance under—
- (a) section 1 of the Agriculture Act 2020 (powers of Secretary of State to give financial assistance),
 - (b) section 21 of, or paragraph 8 of Schedule 5 to, that Act (powers of Secretary of State and Welsh Ministers to give financial assistance in exceptional market conditions), or
 - (c) a scheme of the sort mentioned in section 2(4) of that Act (third party schemes);
- “statutory duty” means a duty imposed by or under—
- (a) an Act of Parliament;
 - (b) an Act or Measure of Senedd Cymru;
 - (c) retained direct EU legislation.”

Arbitration or third party determination of rent: relevant factors

- 8 (1) In Schedule 2 (arbitration or third party determination of rent), paragraph 3 is amended as follows.
- (2) In paragraph (a), omit the final “and”.
- (3) After paragraph (a) insert—
- “(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”.

Notices to quit: cases where consent of tribunal not required

- 9 In Part 1 of Schedule 3 (cases where consent of tribunal to operation of notice to quit not required), in Case A, in paragraph (a), for “the age of sixty-five” substitute “the tenant’s pensionable age (as specified from time to time in Part 1 of Schedule 4 to the Pensions Act 1995)”.

Succession on death or retirement: condition relating to occupation of commercial unit

- 10 In section 35 (application of sections 36 to 48), in subsection (2) omit “(and in Part I of Schedule 6 to this Act)”.
- 11 (1) Section 36 (right of any eligible person to apply for new tenancy on death of tenant) is amended as follows.
- (2) In subsection (3)—
- (a) omit the words from “subject to” to “this Act and”;
- (b) for “conditions are” substitute “condition is”;
- (c) omit paragraph (b) and the preceding “and”.
- (3) For subsection (5) substitute—
- “(5) For the purposes of the condition in subsection (3)(a), any period during which a close relative of the deceased was, in the period of seven years mentioned in that condition, attending a full-time course at a university, college or other establishment of higher or further education shall be treated as a period throughout which the relative’s only or principal source of livelihood derived from the relative’s agricultural work on the holding; but not more than three years in all shall be so treated by virtue of this subsection.”
- 12 In section 41 (application by not fully eligible person), in subsection (1) omit paragraph (a).
- 13 (1) Section 50 (right to apply for new tenancy on retirement of tenant) is amended as follows.
- (2) In subsection (2)—

Status: This is the original version (as it was originally enacted).

- (a) omit the words from “(subject to” to “subsection (4) below”;
- (b) for “conditions are” substitute “condition is”;
- (c) omit paragraph (b) and the preceding “and”.

(3) For subsection (4) substitute—

“(4) For the purposes of the condition in subsection (2)(a), any period during which a close relative of the retiring tenant was, in the period of seven years mentioned in that condition, attending a full-time course at a university, college or other establishment of higher or further education shall be treated as a period throughout which the relative’s only or principal source of livelihood derived from the relative’s agricultural work on the holding; but not more than three years in all shall be so treated by virtue of this subsection.”

- 14 Omit section 58 (effect of direction under section 53 on succession to other holdings).
- 15 (1) Section 59 (interpretation of Part 4) is amended as follows.
- (2) In subsection (1) omit the words from “(and” to “this Act”.
- (3) In subsection (2) omit the words from “(and” to “above”.
- 16 Omit Schedule 6 (eligibility to apply for new tenancy).

Succession on death or retirement: condition relating to suitability

- 17 In section 39 (applications for tenancy of holding), for subsection (8) substitute—
- “(8) For the purposes of this section, a person’s suitability to become the tenant of a holding is to be determined (having regard to any views stated by the landlord) in accordance with criteria specified in regulations made by—
- (a) the Secretary of State, in relation to England, and
 - (b) the Welsh Ministers, in relation to Wales.
- (8A) The criteria referred to in subsection (8) must relate to the person’s likely capacity to farm the holding commercially to high standards of efficient production and care for the environment, and may in particular include—
- (a) criteria relating to the person’s experience, training or skills in agriculture or business management;
 - (b) criteria relating to the person’s physical health, financial standing or character;
 - (c) criteria relating to the character or condition of the holding or the terms of the tenancy.”

18 (1) Section 53 (application for tenancy of holding by nominated successor) is amended as follows.

(2) In subsection (6) omit the words from “and in making” to the end.

(3) After subsection (6) insert—

“(6A) Section 39(8) and (8A) apply for the purposes of determinations under this section relating to a person’s suitability to become the tenant of a holding.”

Succession on retirement: minimum age of retiring tenant

- 19 In section 51 (cases excluded from operation of section 50(1)) omit subsection (3).
- 20 In section 53 (application for tenancy of holding by nominated successor) omit subsection (4).

Regulations and orders

- 21 (1) Section 94 (orders and regulations) is amended as follows.
- (2) In subsection (1), for “the Minister or the Lord Chancellor” substitute “the Secretary of State, the Lord Chancellor or the Welsh Ministers”.
- (3) In subsection (2), for “either House of Parliament” substitute—
- “(a) either House of Parliament, in the case of a statutory instrument made by the Secretary of State or Lord Chancellor, or
 - (b) Senedd Cymru, in the case of a statutory instrument made by the Welsh Ministers”.
- (4) In subsection (3), for “each House of Parliament” substitute—
- “(a) each House of Parliament, in the case of regulations made by the Secretary of State, or
 - (b) Senedd Cymru, in the case of regulations made by the Welsh Ministers”.
- (5) In subsection (4), for “each House of Parliament” substitute—
- “(a) each House of Parliament, in the case of an order made by the Secretary of State, or
 - (b) Senedd Cymru, in the case of an order made by the Welsh Ministers”.

PART 2

AMENDMENTS TO THE AGRICULTURAL TENANCIES ACT 1995

Introductory

- 22 The Agricultural Tenancies Act 1995 is amended as follows.

Appointment of arbitrators

- 23 (1) Section 12 (appointment of arbitrator) is amended as follows.
- (2) The existing subsection becomes subsection (1).
- (3) In that subsection, for the words from “the President” to the end substitute “a professional authority for the appointment of an arbitrator by that authority”.
- (4) After that subsection insert—
- “(2) A party may not make an application to a professional authority under subsection (1) in any case if the other party has already made an application to a professional authority under that subsection in that case.”

Status: This is the original version (as it was originally enacted).

- 24 (1) Section 19 (references to arbitration of certain disputes) is amended as follows.
- (2) In subsection (4), for the words from “the President” to the end substitute “a professional authority, subject to subsections (9) and (9A) below, for the appointment of an arbitrator by that authority”.
- (3) After subsection (9) insert—
- “(9A) An application may not be made to a professional authority under subsection (4) above in any case by the landlord or the tenant if the other of them has already made an application to a professional authority under that subsection in that case.”
- 25 (1) Section 22 (settlement of claims for disputes) is amended as follows.
- (2) In subsection (3), for the words from “the President” to the end substitute “a professional authority for the appointment of an arbitrator by that authority”.
- (3) After subsection (3) insert—
- “(3A) A party may not make an application to a professional authority under subsection (3) above in relation to a claim if the other party has already made an application to a professional authority under that subsection in relation to that claim.”
- (4) In subsection (4)—
- (a) in paragraph (b), after “as an application” insert “to the same professional authority”;
- (b) in the words after paragraph (b), for “the President of the RICS” substitute “the professional authority”.
- 26 (1) Section 28 (resolution of disputes) is amended as follows.
- (2) In subsection (2), for the words from “the President” to the end substitute “a professional authority for the appointment of an arbitrator by that authority”.
- (3) In subsection (3), for the words from “the President” to the end substitute “a professional authority for the appointment of an arbitrator by that authority”.
- (4) After subsection (3) insert—
- “(3A) A party may not make an application to a professional authority under subsection (3) above in relation to a dispute if the other party has already made an application to a professional authority under that subsection in relation to that dispute.”
- 27 (1) Section 30 (general provisions applying to arbitrations) is amended as follows.
- (2) In subsection (2)—
- (a) for “the President of the RICS” substitute “a professional authority”;
- (b) for “by him” substitute “by that authority”;
- (c) for “as the President” substitute “as that authority”.
- (3) In subsection (3)—
- (a) after “appointed” insert “by a professional authority”;
- (b) for “the President of the RICS” substitute “that authority”;
- (c) for “by him” substitute “by that authority”.

