



Agriculture (Scotland) Act 1948

1948 CHAPTER 45

PART II

GOOD ESTATE MANAGEMENT AND GOOD HUSBANDRY.

26 Duties of good estate management and good husbandry.

- (1) The following provisions of this Part of this Act shall have effect for the purpose of securing that owners of agricultural land fulfil their responsibilities to manage the land in accordance with the rules of good estate management, and that occupiers of agricultural land fulfil their responsibilities to farm the land in accordance with the rules of good husbandry.
- (2) The provisions of the Fifth Schedule and of the Sixth Schedule to this Act shall have effect respectively for the purpose of determining for the purposes of this Act whether the owner of agricultural land is fulfilling his responsibilities to manage it in accordance with the rules of good estate management, and whether the occupier of an agricultural unit is fulfilling his responsibilities to farm it in accordance with the rules of good husbandry.

27 Powers of Secretary of State in cases of bad estate management or bad husbandry.

- (1) Where the Secretary of State is satisfied that the owner of agricultural land is not fulfilling his responsibilities to manage the land in accordance with the rules of good estate management, or that the occupier of an agricultural unit is not fulfilling his responsibilities to farm the unit in accordance with the rules of good husbandry, the Secretary of State may, after affording to the owner or the occupier, as the case may be, an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, serve on such owner or occupier a notice (hereafter in this Part of this Act referred to as a "warning notice") to that effect, and so long as such notice continues in force—
 - (a) any person authorised by the Secretary of State in that behalf may at all reasonable times enter upon the land to which the notice relates for the purpose

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of inspecting the way in which it is being managed or farmed, as the case may be;

- (b) the Secretary of State shall have the powers of direction and dispossession conferred by the following provisions of this Part of this Act.

For the avoidance of doubt it is hereby declared that the fact that a person is both the occupier of the unit and also the owner of the unit or part thereof does not prevent the serving of notices under this subsection both in relation to fanning and in relation to management.

- (2) A warning notice served under the last foregoing subsection shall specify the general grounds on which the Secretary of State is satisfied as mentioned in subsection (1) of this section.
- (3) While a warning notice is in force the Secretary of State shall within twelve months from the date on which the warning notice becomes effective and thereafter at intervals of not more than twelve months while the warning notice is in force review the management (if the notice relates to management) or the farming (if the notice relates to farming) of the land or agricultural unit to which the notice relates; and if he is satisfied that by reason of the standard of management or farming, as the case may be, attained by the person to whom the notice relates it is no longer necessary that the notice should continue in force, the Secretary of State shall withdraw the notice, and shall give notice in writing to the person to whom the notice relates that he has done so, or if he is not so satisfied the Secretary of State shall inform the person to whom the warning notice relates that the warning notice is to continue in force;

Provided that the withdrawal of the notice shall not affect any direction given thereunder in so far as it is in force immediately before the withdrawal of the notice.

- (4) Where the owner of land is not also the occupier thereof—
 - (a) an opportunity of making representations to the Secretary of State shall be afforded under subsection (1) of this section both to the owner and to the occupier, and not only to the person on whom the Secretary of State is considering serving the notice;
 - (b) forthwith after serving a warning notice on, or giving notice of the withdrawal or of the continuance of a warning notice to the owner or the occupier, as the case may be, the Secretary of State shall serve a copy of the notice on, or give notice in writing of the withdrawal or of the continuance to the other party.
- (5) If while a warning notice is in force in relation to the farming of an agricultural unit additional land becomes comprised in the unit, the notice shall by virtue of this subsection extend to the farming of that additional land; and references in this Act to the coming into operation of the notice shall be construed as references to the date at which the notice originally came into operation as well in relation to the additional land as in relation to any other land to which the notice relates:

Provided that nothing in this subsection shall be construed as imposing on any person any liability with respect to the additional land at a date before it became part of the said agricultural unit.

28 Changes of owner or occupier effected without approval of Secretary of State not to invalidate warning notices.

Where a warning notice is in force, any transfer of any interest in the land to which the notice relates, otherwise than by a testamentary disposition or by operation of law, whereby some other person becomes the owner or the occupier of that land shall not, unless approved by the Secretary of State either before or after the transfer is completed, affect the continued operation of the notice, and accordingly in default of such approval the notice shall continue in force so far as it relates to that land (but subject to the provisions of subsection (3) of the last foregoing section) as if it had been served on the new owner or occupier, as the case may be, as well as on the former owner or occupier.

Directions to secure good estate management and good husbandry.

29 Directions to secure good estate management and good husbandry.

- (1) Where a warning notice is in force, the Secretary of State, after affording to the person to whom the notice relates an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, may by notice in writing served on the person to whom the notice relates give to that person such directions as the Secretary of State is satisfied are required—
 - (a) where the notice relates to the management of land, to secure that the said person fulfils his responsibilities to manage the land in accordance with the rules of good estate management;
 - (b) where the notice relates to the farming of an agricultural unit, to secure that the said person fulfils his responsibilities to farm the unit in accordance with the rules of good husbandry.
- (2) Without prejudice to the generality of the provisions of the last foregoing subsection, in so far as it appears to the Secretary of State requisite for the purposes of that subsection—
 - (a) a direction under paragraph (a) thereof may impose requirements, restrictions or prohibitions as to the carrying out of work and may require that the management to which the direction relates shall be entrusted to a person appointed by the owner to whom the notice relates and approved, by the Secretary of State;
 - (b) a direction under paragraph (b) thereof may impose requirements, restrictions or prohibitions as to the carrying out of work and as to the purpose for which and the manner in which land is to be used for agricultural production:

Provided that a direction under the said paragraph (b) shall not be given to the tenant of a holding (as defined in the Act of 1923) to carry out on the holding any improvement falling within Part I of the First Schedule to that Act unless either the landlord has consented to the carrying out of the improvement or, by virtue of the provisions of the Act of 1923 and this Act relating to market gardens, compensation for the carrying out of the improvement does not depend on the landlord's consent thereto.

- (3) Any direction requiring only the doing of one or more of the following things, that is to say, the provision, improvement, replacement, renewal, maintenance or repair of fixed equipment which could be given under subsection (1) of this section while a warning notice is in force may be given notwithstanding that no such notice is in force.

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- (4) Any direction under this section requiring the provision or improvement of fixed equipment on a holding (as defined in the Act of 1923) or such replacement or renewal of fixed equipment thereon as has been rendered necessary by natural decay or fair wear and tear shall, notwithstanding the terms of any lease to which he may be a party, be given to the owner of the land.
- (5) If any person to whom a direction is given under this section contravenes or fails to comply with the direction, he shall be liable on summary conviction to a fine not exceeding one hundred pounds.
- (6) Without prejudice to the bringing of proceedings under the last foregoing subsection, where a direction under this section to carry out any work is not complied with and the Secretary of State is satisfied that an adequate opportunity has been afforded to the person to whom the direction has been given to carry out the direction, any person authorised by the Secretary of State in that behalf may enter upon the land to which the direction relates and any other land managed or, as the case may be, farmed in conjunction therewith, and carry out the work required by the direction, and the reasonable cost of carrying out work in the exercise of powers conferred by this subsection shall be recoverable by the Secretary of State from the person to whom the direction was given.
- (7) Any question arising under the last foregoing subsection as to what is the reasonable cost of any work shall be determined by an arbiter appointed in default of agreement in accordance with the provisions of the Act of 1923.
- (8) Any person who obstructs a person acting in the exercise of powers conferred by subsection (6) of this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.
- (9) Where a direction under this section provides for the doing of anything within a specified time and (whether before or after the expiration of the said time) the Secretary of State is satisfied that it is reasonable that the said time should be extended, he may extend it accordingly.

30 Supplementary provisions as to directions.

- (1) The Secretary of State shall not give to the owner of land consisting of or comprised in any agricultural unit a direction under the last foregoing section to provide fixed equipment on that land until, after affording to the owner an opportunity of making representations to the Secretary of State, as required by subsection (1) thereof, the Secretary of State has given to the owner notice in writing of the proposal to give the direction, specifying the nature of the direction which the Secretary of State proposes to give.

The references in this and in the next succeeding subsection to the provision of fixed equipment include references to the improvement, replacement or renewal thereof, the provision thereof by the conversion of existing fixed equipment and the improvement thereof by the enlargement of buildings.

- (2) An owner to whom notice of a proposal is given under the last foregoing subsection may require that the proposal shall be referred to the Land Court, and the provisions of Part VI of this Act shall apply accordingly, either in any case in which the owner proves to the satisfaction of the . Court that—

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- (a) the estimated reasonable cost of the work involved in the proposal, and
- (b) the cost borne by the owner of any other work for providing fixed equipment on the agricultural unit carried out within the two years immediately preceding the service of the notice, being work requisite for compliance with the owner's responsibilities to manage in accordance with the rules of good estate management,

together exceed the annual value of the land owned by him and comprised in the agricultural unit, or in any case in which either an authority or person has, at the time when the notice is given, power without further authorisation to acquire compulsorily the land to which the notice relates, or at that time that land is designated by a development plan under the enactments relating to town and country planning as subject to compulsory acquisition, or is designated by an order under section one of the New Towns Act, 1946.

For the purposes of this subsection, the annual value of land shall be taken to be the gross annual value thereof as entered in the valuation roll in force at the time when the notice under the last foregoing subsection was given, or, if the land is not separately entered in the valuation roll, such proportion of the gross annual value as so entered of the lands and heritages of which it forms part as the Land Court may determine to be appropriate.

- (3) Where a direction is proposed to be given under the last foregoing section to an owner who is not the occupier of the land in question or to an occupier who is not the owner thereof, and the proposed direction would require the provision, improvement, replacement, renewal, maintenance or repair of fixed equipment, or the ploughing-up of permanent pasture, an opportunity of making representations to the Secretary of State shall be afforded under subsection (1) of the last foregoing section both to the owner and to the occupier, and not only to the person to whom it is proposed to give the direction.
- (4) The provisions of the Third Schedule to this Act shall have effect where a direction is given under the last foregoing section requiring the ploughing-up of permanent pasture or the carrying out of other acts of cultivation.
- (5) Where a direction has been given under the last foregoing section to an owner requiring him to carry out any work on land of which he is not also the occupier, he or any person authorised by him may at all reasonable times enter on the land and carry out the work specified in the direction.

*Dispossession of owners or occupiers on grounds
of bad estate management or bad husbandry.*

31 Dispossession on grounds of bad estate management.

- (1) Where a warning notice is in force in relation to the management of land, and the Secretary of State is satisfied that the management thereof does not while the notice is in force show satisfactory improvement, and certifies accordingly, the Secretary of State shall, subject to the provisions of this section, have power to purchase compulsorily in accordance with the provisions of this Act in that behalf the land to which the notice relates or any part of that land.
- (2) Where the Secretary of State proposes to purchase any land under the last foregoing subsection and is satisfied that it is necessary for the purpose of securing the proper

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management thereof that he should acquire any other adjacent or contiguous land which is being managed by the same person in conjunction with the first-mentioned land, and certifies accordingly, the Secretary of State shall, subject to the provisions of this section, have power to purchase that other land compulsorily in accordance with the provisions aforesaid.

- (3) Where any person having an interest in land, by notice in writing served on the Secretary of State within six months of the giving by the Secretary of State of a certificate under the foregoing provisions of this section relating to any other land, represents to the Secretary of State that the first-mentioned land was at the time when the certificate was given being managed in conjunction with that other land and that it is not reasonably practicable to manage it except in conjunction therewith, and requires that the Secretary of State shall purchase the said interest, then unless the Secretary of State is satisfied that the representation is not justified and certifies accordingly before the expiration of the prescribed period, the Secretary of State shall be deemed on the date on which the said period expires to have been authorised to purchase the interest compulsorily in accordance with the provisions of this Act in that behalf and to have served a notice to treat in respect of the interest on that date.

The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this subsection.

- (4) The Secretary of State shall not give any certificate under subsection (1), (2) or (3) of this section until, after affording to any such person as is specified in subsection (6) of this section an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, the Secretary of State has given to any such person as is so specified notice in writing of the proposal to give the certificate together with such particulars as appear to the Secretary of State requisite for informing him of the general grounds on which the Secretary of State is satisfied as mentioned in subsection (1) of this section.
- (5) Any person to whom notice of a proposal is given under the last foregoing subsection may require that the proposal shall be referred to the Land Court, and the provisions in that behalf of Part VI of this Act shall apply accordingly.
- (6) The persons referred to in subsection (4) of this section are—
- (a) in the case of a proposed certificate under subsection (1) or (2) of this section, every person on whom under paragraph 3 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, a notice would be required to be served of a proposed compulsory purchase order under that Act authorising the compulsory purchase of the land to which the proposed certificate is to relate;
 - (b) in the case of a proposed certificate under subsection (3) of this section, the person by whom the representation in question was made.
- (7) No certificate under subsection (1) or (2) of this section shall be given until not less than twelve months has expired from the coming into operation of the warning notice in question, except where the person who for the time being is the owner to whom the notice relates has failed to comply with any direction under the foregoing provisions of this Part of this Act given to him as the owner—
- (a) in the case of a proposed certificate under subsection (1) of this section, of the land to which the proposed certificate is to relate,

- (b) in the case of a proposed certificate under subsection (2) thereof, of the land proposed to be acquired under subsection (1) of this section;

and no person on whom a notice to treat is served under powers conferred by either of the said subsections (1) and (2) shall be required to convey his interest to the Secretary of State, or, if he is in occupation of the land in question, to give up the occupation thereof, before the expiration of three months from the service of the notice to treat.

32 Dispossession on grounds of bad husbandry.

- (1) Where a warning notice is in force in relation to the farming of an agricultural unit, and the Secretary of State is satisfied that the farming thereof does not while the notice is in force show satisfactory improvement, then subject to the provisions of this section—
- (a) where in the case of any land comprised in the unit the occupier is not the owner thereof, the Secretary of State shall have power by order to terminate the occupier's interest in, and to require him to give up his occupation of, that land, or any part thereof specified in the order, as from such date not earlier than three months after the making of the order as may be specified therein, and to require that the owner shall as from the said date either farm it himself, if he so elects and the Secretary of State approves, or let it to a tenant approved by the Secretary of State;
- (b) where in the case of any land comprised in the unit the occupier is the owner thereof, the Secretary of State shall have power by order to direct that as from such date as aforesaid the occupier shall give up his occupation of that land, or any part thereof specified in the order, and let it to a tenant approved by the Secretary of State:

Provided that in any case where under this subsection the approval of the Secretary of State is withheld the owner may require that the matter shall be referred to the Land Court and the provisions in that behalf of Part VI of this Act shall apply accordingly.

- (2) The Secretary of State shall not make an order, under the last foregoing subsection until, after affording to the occupier and, in the case of a proposal to make an order under paragraph (a) thereof, to the owner of the land to which the proposed order is to relate an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, the Secretary of State has given to the occupier, and in such a case as aforesaid to the said owner, notice in writing of the proposal to make the order, together with such particulars as appear to the Secretary of State requisite for informing the recipient of the notice of the general grounds on which the Secretary of State is satisfied as mentioned in subsection (1) of this section.
- (3) The Secretary of State, before making an order under subsection (1) of this section in the case of any land which is situated in a crofting parish and is occupied by a landholder or a statutory small tenant, shall take into consideration the general circumstances of the occupier, including his employment, if any, in one or more of the occupations commonly followed as subsidiary or auxiliary to the cultivation of a holding, and the need of the occupier for the land as a place of residence.

In this subsection the expressions "crofting parish," "landholder," "statutory small tenant" and "holding" have the like meanings as in the Small Landholders (Scotland) Acts, 1886 to 1931.

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- (4) An occupier or owner to whom notice of a proposal is given under subsection (2) of this section may require that the proposal shall be referred to the Land Court, and the provisions in that behalf of Part VI of this Act shall apply accordingly.
- (5) No order under subsection (1) of this section shall be made until not less than twelve months has expired from the coming into operation of the warning notice in question, except where the person who for the time being is the occupier to whom the notice relates has failed to comply with any direction under the foregoing provisions of this Part of this Act given to him as the occupier of land comprised in the agricultural unit to which the proposed order under subsection (1) of this section is to relate.
- (6) For the avoidance of doubt it is hereby declared that the termination under paragraph (a) of subsection (1) of this section of the interest of a tenant in any land is to be treated, for the purposes of the provisions relating to compensation of the Agricultural Holdings (Scotland) Acts, 1923 to 1948, as the termination of his tenancy of the land, but nothing in this section shall be construed as entitling the tenant to any compensation for disturbance.
- (7) Where under paragraph (a) of subsection (1) of this section an order is made terminating the interest of a tenant in part only of a holding (as defined in the Act of 1923),—
 - (a) the said provisions relating to compensation shall apply as if the part to which the order relates were - a separate holding; and
 - (b) the tenant shall be entitled to a reduction of rent proportionate to the value of the part to which the order relates, and the amount of that reduction shall, in default of agreement, be determined by arbitration under the Act of 1923.
- (8) A certified copy of an order under subsection (1) of this section requiring an occupier to give up his occupation of any land shall be a sufficient warrant for ejection against the occupier or any party in his right in the event of noncompliance with such order.

33 Power of Secretary of State to take possession where occupier dispossessed and no other arrangements made.

- (1) Where, at the date as from which a person is required under paragraph (a) or (6) of section (i) of the last foregoing section himself to farm any land or to let it to a person approved by the Secretary of State, the person on whom the requirement is imposed has not complied therewith, the Secretary of State may take possession of the land for the purpose of farming it, and—
 - (a) on the Secretary of State taking possession of the land any tenancy thereof granted without the approval of the Secretary of State and since the imposition of the requirement shall be deemed to have terminated by reason of a notice to quit duly given by the landlord, and
 - (b) the Secretary of State may by order require the tenant whose tenancy is deemed to have terminated as aforesaid to give up his occupation of the land.
- (2) While the Secretary of State is in possession of land under this section it shall be his duty to secure that it is farmed in accordance with the rules of good husbandry either—
 - (a) by a person acting under the direction of the Secretary of State, or
 - (b) by a person entrusted by the Secretary of State with the farming thereof on such terms, being terms which in the opinion of the Secretary of State would be 'appropriate to a letting thereof to a tenant from year to year, as may be agreed between the Secretary of State and the said person;

and subject to the provisions of this section the Secretary of State and the person who, apart from any tenancy deemed to have terminated under paragraph (a) of subsection (1) of this section, for the time being would be entitled to possession of the land but for the exercise by the Secretary of State of his powers under this section (hereafter in this section referred to as "the landlord") shall have the like rights against and liabilities to each other as if the Secretary of State were a tenant of the land under a tenancy from year to year beginning on the date on which the Secretary of State took possession of the land and granted by the landlord under a lease containing such provisions (other than provisions as to rent or any such payment as is mentioned in the next following subsection) as may be agreed between the Secretary of State and the landlord, and providing for the making of payments by the Secretary of State of such amounts at such times as a tenant under such a lease might reasonably be expected to make by way of rent.

(3) On the Secretary of State taking possession of land under this section there shall be ascertained—

- (a) the amount (if any) in addition to rent which might reasonably have been expected to be payable by an incoming tenant, under the lease referred to in the last foregoing subsection, in respect of things previously done for the purposes of the farming of the land, and in respect of seeds, tillages, growing crops and other matters;
- (b) the cost of the carrying out of any work which under the rules of good husbandry or under the lease ought to have been carried out on the land by the occupier before the Secretary of State took possession thereof, being work which is necessary for putting the land into good tenable condition;

and if the said amount is greater than the said cost the difference shall be recoverable from the Secretary of State by the landlord, and if less the difference shall be recoverable from the landlord by the Secretary of State.

(4) Where the Secretary of State has taken possession of land under this section in consequence of the termination of the interest of a tenant, then, without prejudice to his responsibilities under the rules of good estate management, the landlord shall be liable to the Secretary of State to carry out any work which under the lease with the tenant he was liable to carry out, being work which is necessary for putting the land into good tenable condition; and any such liability shall be enforceable by the Secretary of State in like manner as if it were imposed by the lease referred to in subsection (2) of this section.

(5) The Secretary of State shall be entitled to continue in possession of land under this section—

- (a) where it is being farmed by a person acting under the direction of the Secretary of State, and it is shown to the Secretary of State that the landlord has made arrangements satisfactory to the Secretary of State for the farming of the land by himself or by a person approved by the Secretary of State, until the next twenty-eighth day of May or twenty-eighth day of November as may be specified in a notice in writing served on the Secretary of State by the landlord not later than two months before the said day;
- (b) where it is being farmed by a person to whom the Secretary of State has entrusted the farming thereof, until that person is entitled to possession of the land as tenant thereof under an agreement with the landlord approved by the Secretary of State.

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- (6) Nothing in subsection (2) of this section shall entitle the Secretary of State, on giving up possession of land, to compensation for disturbance; but save as aforesaid that subsection shall apply as if when the Secretary of State gives up possession he were quitting the land on the termination of the tenancy referred to in that subsection by notice to quit duly given by the landlord.
- (7) The enactments relating to income tax, and in particular such of those enactments as relate to the deduction of tax from rent and to the taxation of excess rents, shall apply—
 - (a) in relation to payments made under subsection (2) of this section by the Secretary of State to the landlord, as if the Secretary of State were a tenant and the landlord were a lessor of the land under such a lease as is mentioned in the said subsection (2) and the payments were rent paid thereunder;
 - (b) in relation to payments made by any such person as is mentioned in paragraph (b) of that subsection to the Secretary of State, as if the said person were a tenant and the Secretary of State were a lessor of the land under such a letting as is mentioned in the said paragraph (b) and the payments were rent paid thereunder.
- (8) Any question arising under subsections (2) to (6) of this section between the Secretary of State and the landlord shall, in default of agreement, be determined by arbitration under the Act of 1923.
- (9) A certified copy of an order under subsection (1) of this section requiring a tenant to give up his occupation of any land shall be a sufficient warrant for ejection against the tenant or any party in his right in the event of non-compliance with such order.

34 Power of tenant or landlord to apply for dispossession of owner or occupier.

- (1) On any review under subsection (3) of section twenty-seven of this Act of the management of land or the farming of an agricultural unit of which the owner is not also the occupier.—
 - (a) if the review is of management, the Secretary of State shall consider any request made by the occupier that the Secretary of State shall exercise his powers under subsection (1) of section thirty-one of this Act in relation to the land;
 - (b) if the review is of farming, the Secretary of State shall consider any request made by any owner of land comprised in the agricultural unit that the Secretary of State shall exercise his powers under subsection (1) of section thirty-two of this Act in relation to the said land.
- (2) Where such a request is made the Secretary of State shall not comply therewith unless he is satisfied that the management or the farming, as the case may be, has not shown satisfactory improvement while the warning notice has been in force, but save as aforesaid may, subject to the provisions of this section, either comply with or refuse the request.
- (3) If the Secretary of State proposes to refuse such a request, he shall give notice in writing of his proposal to the owner and to the occupier.
- (4) If before the expiration of the prescribed period from the making of such a request no notice has been given either under the last foregoing subsection of a proposal to refuse the request or under section thirty-one or thirty-two of this Act of a proposal

complying with the request, the Secretary of State shall be deemed to have given notice of his proposal to refuse the request.

- (5) Where notice of a proposal to refuse such a request is given or deemed to have been given the person by whom the request was made may require that the proposal shall be referred to the Land Court and the provisions in that behalf of Part VI of this Act shall apply accordingly.
- (6) Where in consequence of a report of the Land Court on a reference under the last foregoing subsection the Secretary of State complies with such a request as aforesaid, the provisions of subsections (4) and (5) of section thirty-one of this Act or subsections (2) and (4) of section thirty-two thereof, as the case may be, shall not apply to any action of the Secretary of State necessary to comply with the request.

Special directions to secure production.

35 Special directions to secure production.

- (1) Where it appears to the Secretary of State necessary so to do in the interest of the national supply of food or other agricultural products, he may by statutory instrument order that all or any of the powers conferred on him by the next following subsection shall be exercisable by him for a period of one year from the making of the instrument, or in the case of an instrument made before the first day of January, nineteen hundred and fifty, and confined to the powers conferred by paragraph (d) of the next following subsection, for the period ending with the thirty-first day of December in that year.
- (2) During the period for which the said powers are exercisable the Secretary of State may by notice in writing served on the person occupying or entitled to occupy any agricultural land give such directions—
 - (a) as to the use of the land for any of the purposes of agriculture and the manner in which and the produce for which it is to be so used;
 - (b) as to the carrying out of any work required to enable the land to be used as directed under paragraph (a) of this subsection,
 - (c) as to any other matters as to which directions may be given to an occupier of an agricultural unit where a warning notice under this Part of this Act is in force in relation to his farming of the unit,
 - (d) without prejudice to the general powers conferred by the foregoing paragraphs, as to the maximum area of land which may be maintained on an agricultural unit under pasture laid down with clover, grass, lucerne, sainfoin or other seeds or under herbage crops grown for commercial seed production, as appear to the Secretary of State expedient in the interest aforesaid and reasonable having regard to the character and situation of the land and other relevant circumstances.
- (3) If any person to whom a direction is given under this section contravenes or fails to comply with the direction, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.
- (4) Subsections (6) to (9) of section twenty-nine of this Act shall apply in relation to directions under this section as they apply in relation to directions under the said section twenty-nine.

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- (5) The provisions of the Third Schedule to this Act shall have effect where a direction is given under this section requiring the ploughing-up of permanent pasture or the performing of other acts of cultivation.
- (6) Nothing done or omitted by an occupier in pursuance of a direction under this section shall be treated as a failure to fulfil his responsibilities to farm land in accordance with the rules of good husbandry, so long as the act or omission was reasonably necessary in consequence of the giving of the direction.
- (7) Any period for which the powers conferred on the Secretary of State by subsection (2) of this section are exercisable shall be extended by a further year if the Secretary of State by statutory instrument made not earlier than one month before the date on which the said period would otherwise expire orders that the said period shall be so extended.
- (8) The expiration of the said period shall not affect the operation of any direction under this section previously given.
- (9) A statutory instrument made under this section shall be of no effect unless approved by resolution of each House of Parliament:

Provided that if at the time when such an instrument is made Parliament is dissolved or prorogued or both Houses are adjourned for more than four days, the foregoing provisions of this subsection shall not apply but the instrument shall be laid before Parliament as soon as may be and shall cease to have effect unless approved by resolution of each House of Parliament before the expiration of the twenty-eighth day on which that House has sat after the instrument is laid before it.

36 Special directions as to stocking of deer forests and grouse moors.

- (1) Where it appears to the Secretary of State desirable in the interests of food production that steps should be taken for the purpose of promoting, maintaining or increasing the stocking with sheep or cattle, or with both sheep and cattle, of any land forming part of a deer forest or of a grouse moor, the Secretary of State may by notice in writing served on the owner, or, where part of such land is let for agricultural purposes, on the occupier of that part, give such directions as appear to the Secretary of State expedient for the purpose aforesaid.
- (2) The Secretary of State shall not give to the owner or the occupier, as the case may be, of any land a direction under subsection (1) of this section until, after affording to him an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, the Secretary of State has given to the owner or the occupier notice in writing of the proposal to give the direction, specifying the nature of the direction which the Secretary of State proposes to give.
- (3) Where a direction is proposed to be given under this section to an occupier, an opportunity of making representations to the Secretary of State shall be afforded, and notice in writing of the proposal to give the direction shall be given, to the owner of the land as well as to the occupier.
- (4) Any person to whom notice of a proposal is given under this section may require that the proposal shall be referred to the Land Court, and the provisions in that behalf of Part VI of this Act shall apply accordingly.

- (5) Subsections (5) and (9) of section twenty-nine of this Act shall apply in relation to a direction, under this section as they apply in relation to a direction under the said section twenty-nine.
- (6) Where the person to whom a direction has been given under this section has contravened or failed to comply with the direction, then—
- (a) if that person is the owner of the land to which the direction relates, the Secretary of State shall have power to purchase the land or any part thereof compulsorily as if a warning notice had been in force in relation thereto for not less than twelve months and the Secretary of State were satisfied that the management thereof had not, during that period, shown satisfactory improvement, and the provisions of section thirty-one of this Act shall, subject to any necessary modifications, apply accordingly;
 - (b) if that person is the occupier of the land to which the direction relates, the Secretary of State shall have the like powers in relation to the land as if it were an agricultural unit in relation to the farming of . ' which a warning notice had been in force for not less than twelve months and the Secretary of State were satisfied that the farming thereof had not, during that period, shown satisfactory improvement, and the provisions of sections thirty-two and thirty-three of this Act shall, subject to any necessary modifications, apply accordingly.

Supplementary.

37 Service of notices on agents.

Without prejudice to the general provisions of Part VII of this Act as to the service of notices, any warning notice and any other notice required or authorised by the provisions of this Part of this Act relating to warning notices or to the giving of directions to be served on an owner or occupier shall, where an agent or servant of the owner or occupier is responsible for the control of the management or farming, as the case may be, of the land in question, be duly served if served on that agent or servant:

Provided that where by virtue of this subsection any notice is served in connection with a direction to entrust the management of land to a person approved by the Secretary of State a copy of the notice shall be served on the owner.

38 Interpretation of references in Part II to "owner" and "manager".

- (1) In this Part of this Act, the expression "owner", subject to the provisions of the next following subsection, means the person who for the time being is the proprietor of the *dominium utile* or, in the case of land other than feudal land, is the owner thereof.
- (2) Where, in relation to all or any of the provisions of this Part of this Act.—
- (a) all persons appearing to the Secretary of State to be concerned agree, with the approval of the Secretary of State, that some person shall be treated as the owner of land other than the person who would be so treated apart from the agreement, or
 - (b) on an application in that behalf the Land Court determine, having regard to, the respective interests of the persons interested in the land, that some person shall be treated as the owner of the land other than the person who would be so treated apart from the determination,

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

that person shall be so treated, but without prejudice to a subsequent agreement or determination or to his ceasing to be so treated if the Secretary of State withdraws his approval under paragraph (a) of this subsection.

- (3) Any question arising under this Part of this Act whether two parcels of land are being managed by the same person shall be determined, if the management of either or both of the parcels is under the control of an agent or servant, by reference to the person by whom the agent or servant is employed and not by reference to the agent or servant.