

1972 No. 1849

COUNTER-INFLATION

The Counter-Inflation (Agricultural Rents) Order 1972

<i>Made - - - -</i>	<i>1st December 1972</i>
<i>Laid before Parliament</i>	<i>1st December 1972</i>
<i>Coming into Operation</i>	<i>1st December 1972</i>

The Minister of Agriculture, Fisheries and Food (in relation to England and Wales) and the Secretary of State for Scotland (in relation to Scotland), in exercise of the powers conferred upon them by sections 2(4) and 10(2) of, and paragraphs 1, 2 and 4 of the Schedule to, the Counter-Inflation (Temporary Provisions) Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following order :—

Citation and commencement

1. This order may be cited as the Counter-Inflation (Agricultural Rents) Order 1972 and shall come into operation on 1st December 1972.

Interpretation

2.—(1) The Interpretation Act 1889(b) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(2) In this order, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them :—

“ Act of 1948 ” means the Agricultural Holdings Act 1948(c) ;

“ Act of 1949 ” means the Agricultural Holdings (Scotland) Act 1949(d) ;

“ Act of 1972 ” means the Counter-Inflation (Temporary Provisions) Act 1972 ;

“ agricultural ”, “ agricultural holding ” and “ agriculture ” have the meaning respectively assigned to each of those expressions, as respects England and Wales, in section 94(1) of the Act of 1948 and, as respects Scotland, in section 93(1) of the Act of 1949 ;

“ agricultural land ” has the meaning assigned to that expression, as respects England and Wales, in section 1(2) of the Act of 1948 and, as respects Scotland, in section 1(2) of the Act of 1949 ;

“ agricultural tenancy ” means—

(a) as respects England and Wales—

(i) any tenancy under a contract of tenancy of an agricultural holding ;

(ii) any other tenancy of agricultural land of a kind not making the tenant thereunder a tenant as defined in section 94(1) of the Act of 1948 ; and

(a) 1972 c. 74.

(b) 1889 c. 63.

(c) 1948 c. 63.

(d) 1949 c. 75.

(b) as respects Scotland—

- (i) any tenancy under a lease of an agricultural holding ;
- (ii) any other tenancy of agricultural land of a kind not making the tenant thereunder a tenant as defined in section 93(1) of the Act of 1949 ;

“contract of tenancy” has the meaning assigned to that expression in section 94(1) of the Act of 1948 ;

“lease” has the meaning assigned to that expression in section 93(1) of the Act of 1949 ;

“standstill period” means that part of the period during which section 2 of the Act of 1972 is in force occurring after the coming into operation of this order.

(3) In this order, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment.

(4) Any reference in this order to a numbered article is a reference to the article bearing that number in this order.

Prevention of rent increases

3. Subject as hereinafter provided, notwithstanding any agreement (whether pursuant to the terms of an agricultural tenancy or otherwise) or any determination in pursuance, as respects England and Wales, of a reference under section 8 of the Act of 1948 and, as respects Scotland, of a reference under section 7 of the Act of 1949 or an application under section 6 of the Crofters Holdings (Scotland) Act 1886(a) or section 5 of the Crofters (Scotland) Act 1955(b), with respect to the rent to be payable in respect of the agricultural holding comprised in an agricultural tenancy on or from a date falling within the standstill period, no rent payable under an agricultural tenancy shall during the standstill period exceed the rent applicable thereto on 5th November 1972:

Provided that the foregoing provision shall not apply to any increase of rent payable (a) as a term or condition of the tenancy on account of any improvement carried out by the landlord at the request of or by agreement with the tenant in respect of the holding comprised in that tenancy, or (b) in respect of an agricultural holding comprised in an agricultural tenancy on account of any improvement falling within and in accordance with, as respects England and Wales, section 9(1)(b), (c) and (d) of the Act of 1948 and, as respects Scotland, section 8(1)(b), (c) and (d) of the Act of 1949.

4. Where an agricultural tenancy (hereinafter referred to as “the previous tenancy”) terminates on or after 6th November 1972 and the land comprised in the previous tenancy or any part or parts of such land is or are re-let (whether to the previous tenant or not) the rent or, as the case may be, the aggregate of the rents payable in respect of the land comprised in the new tenancy or tenancies during the standstill period shall not exceed the rent which was applicable to such land or such part or parts thereof under the previous tenancy on 5th November 1972 together with any increase permitted in respect of the previous tenancy under the proviso to Article 3:

Provided that the foregoing provision shall not apply to any increase of rent payable under the new tenancy or tenancies being an increase such as is mentioned in paragraph (a) or (b) of the proviso to Article 3.

(a) 1886 c. 29.

(b) 1955, (3 & 4 Eliz. 2) c. 21.

5. Where an agricultural tenancy commences on or after 6th November 1972 and the land comprised in the tenancy was at any time after 5th November 1971 comprised in an agricultural tenancy which terminated before 6th November 1972 the rent applicable to the land comprised in the tenancy during the standstill period shall not exceed the rent which was applicable to that land immediately prior to the termination of the tenancy which terminated last before 6th November 1972:

Provided that the foregoing provision shall not apply to any increase of rent payable under the tenancy being an increase such as is mentioned in paragraph (a) or (b) of the proviso to Article 3.

6. For the purpose of Articles 3, 4 and 5 rent shall be treated as applicable to a tenancy on 5th November 1972 notwithstanding that the amount of the rent is determined after that date under the terms of an agricultural tenancy subsisting on that date or by arbitration or determination under or pursuant to any enactment.

Premium to be treated as rent

7. For the purpose of this order any premium paid during the standstill period in respect of an agricultural tenancy shall be treated as rent.

Recovery of excess rent

8.—(1) Subject to paragraph (3) of this article, where a tenant has paid on account of rent any amount which, by virtue of this order, he is not liable to pay, he shall be entitled to recover that amount from the landlord who received it.

(2) Subject to paragraph (3) of this article, any amount which a tenant is entitled to recover under paragraph (1) of this article may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(3) No amount which a tenant is entitled to recover under paragraph (1) of this article shall be recoverable at any time after the expiration of two years from the date of payment.

Supplemental

9. Nothing in this order shall render unlawful any agreement or determination increasing a rent to which this order applies but, subject to the provisions of this order, no increase of any such rent provided or determined by any agreement or arbitration shall have effect in respect of the standstill period:

Provided that for the purposes only, as respects England and Wales, of section 8(3) of the Act of 1948 and the determination of the date mentioned in paragraph (b) of that subsection and, as respects Scotland, of section 7(3) of the Act of 1949 and the determination of the date mentioned in paragraph (b) of that subsection the foregoing provisions of this order shall be disregarded and any increase of rent which, but for the provisions of this order would have had effect within the standstill period, shall be deemed for each of these respective purposes to have had such effect.

Disclosure of information

10. Where an agricultural tenancy commences on or after 6th November 1972, being an agricultural tenancy to which article 4 or article 5 applies, the

landlord shall, on being so requested in writing by the tenant, supply him with a statement in writing of the rent which—

- (a) in relation to an agricultural tenancy which terminated on or after 6th November 1972, was applicable to the land comprised in that tenancy on 5th November 1972, together with particulars of any increase (if any) permitted in respect of that tenancy after 5th November 1972 under the proviso to article 4 ; and
- (b) in relation to an agricultural tenancy which terminated before 6th November 1972, was applicable to the land comprised in that tenancy immediately prior to the termination thereof.

Offences

11.—(1) Any person who requires or accepts any payment in contravention of any of the provisions of this order shall be liable—

- (a) on summary conviction to a fine not exceeding £400, and
- (b) on conviction on indictment to a fine ;

and, without prejudice to any other method of recovery, the Court by which a person is found guilty of an offence under this paragraph may order any amount paid in excess to be repaid to the person by whom the payment was made.

(2) If, without reasonable excuse, a landlord who has received such a request as is referred to in article 10—

- (a) fails to supply the statement referred to in that article within 21 days of receiving the request, or
- (b) supplies a statement which is false in any material particular,

he shall be liable on summary conviction, in the case of a first offence, to a fine not exceeding £50 and, in the case of a second or subsequent offence, to a fine not exceeding £100.

(3) Where an offence is alleged to have been committed under this order by any organisation, being an un-incorporated body—

- (a) proceedings for the offence shall be brought in the name of that body (and not in that of any of its members) ;
- (b) for the purpose of any such proceedings any rules of Court relating to the service of documents shall have effect as if that body were a corporation ; and
- (c) any fine imposed on conviction shall be payable out of the funds of that body.

(4) Where an offence under this order is an offence punishable on conviction on indictment, as respects England and Wales, section 33 of the Criminal Justice Act 1925(a) and Schedule 2 to the Magistrates' Courts Act 1952(b), and, as respects Scotland, section 40 of the Criminal Justice (Scotland) Act 1949(c), shall have effect as if the said body were a corporation or, as the case may be, a body corporate.

(5) Where an offence under this order committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was

(a) 1925 c. 86.

(b) 1952 c. 55.

(c) 1949 c. 94.

purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(6) Proceedings for an offence under this order shall not be instituted in England or Wales except by or with the consent of the Attorney General.

Transitional

12. Without prejudice to paragraph 3 of the Schedule to the Act of 1972, any right acquired or liability, obligation or penalty incurred by virtue of any of the provisions of this order shall not be affected by section 2 of that Act ceasing to be in force, and accordingly any investigation, legal proceeding or remedy in respect of any such right, liability, obligation or penalty may be instituted, continued or enforced as though the said section 2 had continued in force.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 1st December 1972.

(L.S.)

Joseph Godber,
Minister of Agriculture, Fisheries and Food.

1st December 1972.

Gordon Campbell,
Secretary of State for Scotland.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which applies to England and Wales and Scotland, and is made under the Counter-Inflation (Temporary Provisions) Act 1972, makes provision for preventing rent increases (except on account of certain improvements) during the period when section 2 of the Act is in force, in relation to tenancies of agricultural holdings and other tenancies of agricultural land, over the rent applicable before 6th November 1972. The Order postpones until the end of that period the operation of any term of a tenancy agreement or arbitration or other determination increasing rent over the rent applicable before 6th November 1972.

The Order also requires a landlord, on the written request of a tenant, to furnish in certain cases a statement of the rent applicable to a previous tenancy. The Order makes it a criminal offence to contravene any provision of the Order and provides for the recovery by tenants of excess payments of rent. The Order also contains supplemental and transitional provisions.

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