

Changes to legislation: There are currently no known outstanding effects for the Agricultural Holdings Act 1986, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 30.

NOTICE TO QUIT WHERE TENANT IS A SERVICE MAN

1 In this Schedule—

“the 1951 Act” means the ^{M1}Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951;

“period of residence protection” in the case of a service man who performs a period of relevant service, other than a short period of training, means the period comprising that period of service and the four months immediately following the date on which it ends;

“relevant service” means service (as defined in section 64(1) of the 1951 Act) of a description specified in Schedule 1 to that Act;

“service man” means a man or woman who performs a period of relevant service;

“short period of training” has the meaning given by section 64(1) of the 1951 Act.

Marginal Citations

M1 1951 c. 65.

2 (1) Paragraph 3 below shall have effect where—

- (a) the tenant of an agricultural holding to which this Schedule applies performs a period of relevant service, other than a short period of training, and
- (b) during his period of residence protection there is given to him—
 - (i) notice to quit the holding, or
 - (ii) notice to quit a part of it to which this Schedule applies.

(2) This Schedule applies to—

- (a) any agricultural holding which comprises such a dwelling-house as is mentioned in section 10 of the ^{M2}Rent Act 1977, that is to say a dwelling-house occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the holding, and
- (b) any part of an agricultural holding, being a part which consists of or comprises such a dwelling-house.

Marginal Citations

M2 1977 c. 42.

3 (1) Section 26(1) of this Act shall apply notwithstanding the existence of any such circumstances as are mentioned in Cases B to G; but where the Tribunal are satisfied that such circumstances exist, then, subject to sub-paragraph (2) below, the Tribunal

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shall not be required to withhold their consent to the operation of the notice to quit by reason only that they are not satisfied that circumstances exist such as are mentioned in paragraphs (a) to (f) of section 27(3) of this Act.

(2) In determining whether to give or withhold their consent under section 26 of this Act the Tribunal—

- (a) if satisfied that circumstances exist such as are mentioned in Cases B to G or in section 27(3) of this Act, shall consider to what extent (if at all) the existence of those circumstances is directly or indirectly attributable to the service man's performing or having performed the period of service in question, and
- (b) in any case, shall consider to what extent (if at all) the giving of such consent at a time during the period of protection would cause special hardship in view of circumstances directly or indirectly attributable to the service man's performing or having performed that period of service,

and the Tribunal shall withhold their consent to the operation of the notice to quit unless in all the circumstances they consider it reasonable to give their consent.

4 Where the tenant of an agricultural holding to which this Schedule applies performs a period of relevant service, other than a short period of training, and—

- (a) a notice to quit the holding, or a part of it to which this Schedule applies, is given to him before the beginning of his period of residence protection, and
- (b) the tenant duly serves a counter-notice under section 26(1) of this Act, and
- (c) the Tribunal have not before the beginning of his period of residence protection decided whether to give or withhold consent to the operation of the notice to quit,

paragraph 3(2) above shall (with the necessary modifications) apply in relation to the giving or withholding of consent to the operation of the notice to quit as it applies in relation to the giving or withholding of consent to the operation of a notice to quit given in the circumstances mentioned in paragraph 2(1) above.

5 The Lord Chancellor's power under section 29 of this Act to provide for the matters specified in paragraphs 1 to 7 of Schedule 4 to this Act shall apply in relation to the provisions of sections 26 and 27 of this Act as modified by the preceding provisions of this Schedule as they apply in relation to the provisions of those sections apart from this Schedule.

6 (1) The Lord Chancellor may make regulations—

- (a) for enabling a counter-notice under section 26(1) of this Act to be served on behalf of a service man at a time when he is serving abroad, in a case where a notice to quit is given to him as mentioned in paragraph 2(1) above, and
- (b) for enabling an act or proceedings consequential upon the service of a counter-notice under section 26(1) to be performed or conducted on behalf of a service man at a time when he is serving abroad, either in such a case as is mentioned in paragraph (a) above or in a case where paragraph 4 above applies in relation to him.

(2) References in sub-paragraph (1) above to a time when a service man is serving abroad are references to a time when he is performing a period of relevant service and is outside the United Kingdom.

(3) Regulations under this paragraph may contain such incidental and consequential provisions as appear to the Lord Chancellor to be necessary or expedient for the purposes of the regulations.

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