

SCHEDULES

FIRST SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

ENGLAND AND WALES

Hill Farming Act, 1946

- 1 On the appointed day, in section twenty-one (which empowers the Minister to avoid or relax covenants in leases prohibiting or restricting the burning of heather or grass), the following subsection shall be substituted for subsection (1)—

“(1) Where a lease of land in England or Wales contains a covenant, condition or agreement whereby the burning of heather or grass by the tenant is prohibited or restricted, the Agricultural Land Tribunal, on an application by the tenant, may if it appears to them that the covenant, condition or agreement is preventing or impeding the proper use for agricultural purposes of the land comprised in the lease or any of that land and that it is expedient in all the circumstances so to do, give such directions for avoiding or relaxing the covenant, condition or agreement as they think fit.”

Agriculture Act, 1947

- 2 Section fifty-three (which empowers the Minister, where it appears to him that a smallholdings authority have failed to fulfil their responsibilities to manage in accordance with the rules of good estate management land held by them for the purposes of smallholdings, to direct the authority to carry out certain work on the land) shall cease to have effect.

- 3 In section seventy-three (which provides for the establishment, constitution and procedure of Agricultural Land Tribunals)—

- (a) for references to the Minister there shall be substituted references to the Lord Chancellor;
- (b) in subsection (1), for the words " determining matters referred to them under this Act" there shall be substituted the words " hearing and determining references and applications made to them under any enactment";
- (c) in subsection (3), the following paragraph shall be inserted after the words " and in particular— " —
 - “(aa) as to the manner in which applications are to be made to the Tribunals and the time within which they are to be made;”and paragraph (c) shall be omitted;

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- (d) in subsection (4), the words " or application " shall be inserted after the word " reference " ; and
 - (e) after subsection (4) there shall be inserted the following subsection—
 - “(5) An Agricultural Land Tribunal may, for the purpose of hearing and determining applications and references made to them under any enactment, sit in two or more divisions, and, in relation to the hearing and determination of any such application or reference by such a division, that division shall be deemed to be the Tribunal.”
- 4 In relation to Agricultural Land Tribunals, section seventy-five (which provides for the case where land lies partly in the area of one such tribunal and partly in the area of another) shall have effect (except as respects a reference to such a tribunal under section eighty-five or section eighty-six of the Act of 1947) as if, for the reference therein to the Minister, there were substituted a reference to the Lord Chancellor,
- 5 (1) The Ninth Schedule shall be amended in accordance with the following provisions of this paragraph.
- (2) The following paragraphs shall be substituted for paragraphs 13 to 16—
- “13 (1) The Lord Chancellor shall appoint a chairman for each Agricultural Land Tribunal, who shall be a barrister or solicitor of not less than seven years' standing.
- (2) The chairman shall hold office for three years, and a chairman whose term of office expires shall be eligible to be re-appointed as chairman.
- (3) The chairman may resign his office by notice in writing to the Lord Chancellor.
- (4) If the Lord Chancellor is satisfied that the chairman is incapacitated by infirmity of mind or body from discharging the duties of his office, or if the chairman is adjudged bankrupt or makes a composition or arrangement with his creditors, the Lord Chancellor may revoke the appointment of the chairman.
- 14 The Lord Chancellor shall draw up for each Agricultural Land Tribunal and from time to time revise a panel of deputy-chairmen, who shall be barristers or solicitors of not less than seven years' standing.
- 15 (1) The Lord Chancellor shall draw up for each Agricultural Land Tribunal and from time to time revise a panel of persons appearing to him to represent the interests of farmers and a panel of persons appearing to him to represent the interests of owners of agricultural land.
- (2) Subject to the following sub-paragraph, the persons to be placed on either panel shall be selected by the Lord Chancellor from nominations made at his request by persons appearing to him to represent the interests of farmers or of owners of agricultural land, as the case may be.
- (3) The last foregoing sub-paragraph shall not prevent the Lord Chancellor from placing on either of the panels a person not nominated in accordance with that sub-paragraph, if the persons requested to make the nominations for that purpose do not make the required number of nominations, or the nominations they make do not include enough persons who appear to the Lord Chancellor to be suitable.

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- 16 (1) For each hearing by an Agricultural Land Tribunal of an application or reference thereto the members of the Tribunal shall be—
- (a) the chairman, or a person nominated by the chairman either from the panel of deputy-chairmen (whether for that Tribunal or for any other Agricultural Land Tribunal) or from among the chairmen of other Agricultural Land Tribunals, and
 - (b) one person nominated by the chairman from each of the panels for that Tribunal drawn up under the last foregoing paragraph or from a corresponding panel for any other Agricultural Land Tribunal.
- (2) The chairman may, if it appears to him expedient so to do, nominate two assessors to be added to the Tribunal for the hearing of an application or reference thereto in order to assist the Tribunal in the hearing.
- (3) The assessors shall be selected by the chairman from a panel of persons nominated by the President of the Royal Institution of Chartered Surveyors.
- 16A If the chairman of an Agricultural Land Tribunal is prevented by sickness or any other reason from making nominations under subparagraphs (1) and (2) of the last foregoing paragraph or from otherwise discharging the duties of his office, those duties may be discharged by a person appointed from the panel of deputy-chairmen for that Tribunal by the chairman or, if the chairman is unable to make the appointment, by the Lord Chancellor.”
- (3) In paragraph 17, for the reference to the Minister there shall be substituted a reference to the Lord Chancellor.
- (4) Paragraph 18 shall cease to have effect.

Agricultural Holdings Act, 1948

- 6 The following section shall be substituted for section ten—
- “**10** (1) Where under the contract for a tenancy of an agricultural holding, whether created before or after the commencement of this Act, provision is made for the maintenance of specified land, or a specified proportion of the holding, as permanent pasture, the landlord or the tenant may, by notice in writing served on his tenant or landlord, demand a reference to arbitration under this Act of the question whether it is expedient in order to secure the full and efficient farming of the holding that the amount of land required to be maintained as permanent pasture should be reduced.
- (2) On a reference under the foregoing subsection the arbitrator may by his award—
- (a) direct that the contract of tenancy shall have effect subject to such modifications of the provisions thereof as to land, which is to be maintained as permanent pasture or is to be treated as arable land, and as to cropping, as may be specified in the direction; and
 - (b) if he gives a direction reducing the area of land which under the contract of tenancy is to be maintained as permanent pasture, order that the contract of tenancy shall have effect as if it provided that

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on quitting the holding on the termination of the tenancy the tenant should leave as permanent pasture, or should leave as temporary pasture sown with seeds mixture of such kind as may be specified in the order, such area of land (in addition to the area of land required by the contract of tenancy, as modified by the direction, to be maintained as permanent pasture) as may be so specified, so however , that the area required to be left as aforesaid shall not exceed the area by which the land required by the contract of tenancy to be maintained as permanent pasture has been reduced by virtue of the direction.”

7 In section eleven, in subsection (3) (which provides for a question whether a tenant has so exercised his rights under subsection (1) of that section as to injure or deteriorate his holding to be determined for certain purposes by the Minister), for the words from " shall be determined by the Minister " to the end of the subsection there shall be substituted the words " shall be determined by arbitration under this Act; and the award of the arbitrator shall, for the purposes of any proceedings brought under the last foregoing subsection (including an arbitration under paragraph (b) thereof) be conclusive proof of the facts stated therein.

8 On the appointed day, in section twenty-four, for references to the Minister there shall be substituted references to the Agricultural Land Tribunal.

9 On the appointed day, in section twenty-five—

- (a) subsections (2) to (4) shall cease to have effect;
- (b) in subsection (5) the words " the Minister or " in each place where they occur shall be omitted; and
- (c) in subsection (6), for the reference to the Minister there shall be substituted a reference to the Agricultural Land Tribunal, and for the word " he " there shall be substituted the words " the Tribunal ".

10 The following section shall be substituted for section twenty-six—

“**26** (1) The Lord Chancellor may by order provide—

- (a) for requiring any question arising under subsection (2) of section twenty-four of this Act to be determined by arbitration under this Act, for limiting the time within which any such arbitration may be required or any proceedings for the purposes thereof may be taken, and for extending the period within which a counter-notice may be given by the tenant under subsection (1) of that section where any such arbitration is required;
- (b) for suspending the operation of notices to quit until the termination of any such arbitration as aforesaid;
- (c) for postponing the date at which a tenancy is to be terminated by a notice to quit which has effect in consequence of any such arbitration as aforesaid or of an application under the said section twenty-four;
- (d) for excluding the application of subsection (1) of the said section twenty-four in relation to sub-tenancies in such cases as may be specified in the order, and for making such provision as appears to the Lord Chancellor expedient for the purpose of safeguarding the interests of sub-tenants, including provision enabling the Agricultural Land Tribunal, where the interest of a tenant is terminated by notice to quit, to secure that a sub-tenant will hold from the landlord on the like terms as he held from the tenant.

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- (2) The power to make orders conferred on the Lord Chancellor by this section shall be exercisable by statutory instrument (which shall be subject to annulment in pursuance of a resolution of either House of Parliament) and shall include a power, exercisable in the like manner, to revoke or vary any order made thereunder.”
- 11 On the appointed day, for section twenty-seven there shall be substituted the following section—
- “**27** For the purposes of paragraph (c) of subsection (2) of section twenty-four of this Act, the landlord of an agricultural holding may apply to the Agricultural Land Tribunal for a certificate that the tenant is not fulfilling his responsibilities to farm in accordance with the rules of good husbandry, and the Tribunal, if satisfied that the tenant is not fulfilling his said responsibilities, shall grant such a certificate.”
- 12 Section twenty-eight (which empowers the Minister to give to the tenant of an agricultural holding, being a holding in respect of which a certificate of bad husbandry under section twenty-four of the Act of 1948 is in force, directions for securing that the holding does not further deteriorate before the termination of the tenancy) shall cease to have effect.
- 13 The following section shall be substituted for section twenty-nine—

“29 Penalty for breach of condition accompanying consent to notice to quit.

- (1) Where, on giving consent under section twenty-four of this Act to the operation of a notice to quit an agricultural holding or part of an agricultural holding, the Agricultural Land Tribunal imposed a condition under section twenty-five of this Act for securing that the land to which the notice to quit related would be used for the purpose for which the landlord proposed to terminate the tenancy, and it is proved on an application to the Tribunal on behalf of the Crown—
- (a) that the landlord has failed to comply with the condition within the period allowed thereby, or
- (b) that the landlord has acted in contravention of the condition,
- the Tribunal may by order impose on the landlord a penalty of an amount not exceeding two years' rent of the holding at the rate at which rent was payable immediately before the termination of the tenancy, or, where the notice to quit related to a part only of the holding, of an amount not exceeding the proportion of the said two years' rent which it appears to the Tribunal is attributable to that part.
- (2) A penalty imposed under this section shall be a debt due to the Crown and shall, when recovered, be paid into the Exchequer.
- (3) The Tribunal may, in proceedings under this section, by order provide for the payment by any party of such sum as the Tribunal consider a reasonable contribution towards costs.
- (4) An order under this section shall be enforceable in the same manner as a judgment or order of the county court to the like effect.”

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- 14 On the appointed day, in section fifty (which empowers the Minister to approve the carrying out by the tenant of an agricultural holding of certain long-term improvements)—
- (a) for references to the Minister there shall be substituted references to the Agricultural Land Tribunal;
 - (b) in subsection (1), the words from " after giving notice " to " so to do " shall be omitted;
 - (c) in subsection (2), the words from " after affording " to " by the Minister " and the words from " and in either case " to the end of the subsection shall be omitted; and
 - (d) in subsection (4), the words from " after affording " to " by the Minister " shall be omitted.
- 15 In section fifty, in subsection (3), the following paragraph shall be inserted at the end—
- “In this subsection " the prescribed period " means the period prescribed by the Lord Chancellor by order made by statutory instrument (which shall be subject to annulment in pursuance of a resolution of either House of Parliament); and the power to make orders under this subsection shall include a power, exercisable in the like manner, to revoke or vary any order made thereunder.”
- 16 In section sixty-three, in subsection (1), for the words " paragraph (ii) of section ten " there shall be substituted the words " paragraph (b) of subsection (2) of section ten ".
- 17 On the appointed day, in section sixty-eight (which empowers the Minister to direct that, for the purposes of certain improvements to be carried out by the tenant, an agricultural holding shall be treated as a market garden)—
- (a) for references to the Minister there shall be substituted references to the Agricultural Land Tribunal; and
 - (b) in subsection (1), the words from " and after affording " to " by the Minister " shall be omitted.
- 18 On the appointed day, sections seventy-five and seventy-six (which respectively provide for representations to the Minister as to the taking of action by him, and for proposals as to such action to be referred to the Agricultural Land Tribunal) shall cease to have effect.
- 19 As from the appointed day, the power to make rules under subsection (2) of section seventy-seven shall, in relation to arbitrations under paragraph (a) of subsection (1) of section twenty-six of the Act of 1948, be exercisable by the Lord Chancellor and not by the Minister.
- 20 In the Sixth Schedule, in paragraph 1, for the reference to the Lord Chief Justice of England there shall be substituted a reference to the Lord Chancellor.
- 21 (1) The provisions of paragraph 24 of the Sixth Schedule (under which a special case may be stated for the opinion of the county court where any question of law arises in the course of an arbitration under the Act of 1948) shall apply in relation to a question as to the jurisdiction of an arbitrator as they apply in relation to a question of law arising in the course of an arbitration.
- (2) The provisions of the Sixth Schedule relating to the fixing and recovery of the remuneration of an arbitrator and the making and enforcement of an award as

to costs, together with any other provision thereof applicable for the purposes of or in connection with those provisions, shall apply where the arbitrator has no jurisdiction to decide the question referred to him as they apply where the arbitrator has jurisdiction to decide that question.

Mineral Workings Act, 1951

- 22 In section twenty-one, in subsection (1), for the words " section fourteen " there shall be substituted the words " section ninety-five ".

Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951

- 23 On the appointed day, in section twenty-one—
- (a) in subsections (2) and (3), for references to the Minister there shall be substituted references to the Agricultural Land Tribunal,
 - (b) subsections (4) and (7) shall cease to have effect,
 - (c) for paragraph (c) of subsection (5) there shall be substituted the following—
 - “(c) the Agricultural Land Tribunal has 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,”
 - (d) in subsection (6), for the reference to the Minister there shall be substituted a reference to the Lord Chancellor, and for the reference to regulations there shall be substituted a reference to orders, and
 - (e) in subsection (8) the words from "and the expression" to the end shall be omitted.

- 24 As from the appointed day, the power to make regulations conferred by subsection (4) of section twenty-two shall be exercisable by the lord Chancellor and not by the Minister, and subsection (5) of that section shall have effect accordingly.

Coastal Flooding (Emergency Provisions) Act, 1953

- 25 In section sixteen, for the words " section fourteen " there shall be substituted the words " section ninety-five ".

Agriculture (Miscellaneous Provisions) Act, 1954

- 26 In section five, in subsection (1) (which empowers an Agricultural Land Tribunal to award costs against a person concerned in a reference to them who has acted frivolously, vexatiously or oppressively), after the word " reference " in each place where it occurs there shall be inserted the words " or application ".
- 27 In section six—
- (a) subsection (3) (which entitles the Minister to appear and be heard on a reference or application to the High Court in respect of a question of law arising in the course of proceedings before an Agricultural Land Tribunal) shall cease to have effect; and
 - (b) the power to make orders conferred by subsection (6) shall be exercisable by the Lord Chancellor and not by the Minister.

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- 28 On the appointed day, in section seven, for the words " the Minister of Agriculture and Fisheries" there shall be substituted the words " the Agricultural Land Tribunal".

Landlord and Tenant Act, 1954

- 29 Subsection (1) of section forty-three shall have effect, and be deemed always to have had effect, as if, at the end of paragraph (a) thereof, there were inserted the words " or a tenancy which would be a tenancy of an agricultural holding if the proviso to subsection (1) of section two of the Agricultural Holdings Act, 1948, did not have effect or, in a case where the approval of the Minister of Agriculture, Fisheries and Food was given as mentioned in the said subsection (1), if that approval had not been given".