

1978 No. 742

## LANDLORD AND TENANT

## AGRICULTURAL HOLDINGS

**The Agricultural Holdings Act 1948 (Variation of Fourth Schedule) Order 1978**

<i>Made</i>	- - -	<i>28th March 1978</i>
<i>Laid before Parliament</i>		<i>10th April 1978</i>
<i>Coming into Operation</i>		<i>1st July 1978</i>

The Minister of Agriculture, Fisheries and Food, in exercise of the powers conferred on him by section 78(1) of the Agricultural Holdings Act 1948(a) and of all other powers enabling him in that behalf, and after consultation with such bodies of persons as appear to him to represent the interests of landlords and tenants of agricultural holdings, hereby makes the following Order:—

*Citation and commencement*

1. This Order may be cited as the Agricultural Holdings Act 1948 (Variation of Fourth Schedule) Order 1978, and shall come into operation on 1st July 1978.

*Interpretation*

2.—(1) In this Order, the expression “the Act” means the Agricultural Holdings Act 1948 as varied by the Agricultural Holdings Act (Variation of Fourth Schedule) Order 1951(b).

(2) The Interpretation Act 1889(c) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

*Variation of the Act*

3.—(1) Parts I and II of the Fourth Schedule to the Act (which specifies improvements and other matters for which compensation is payable in accordance with the provisions of the Act) shall be varied in accordance with the Schedule to this Order.

(2) Save as otherwise provided in this Order, every reference in the Act to Part I of the Fourth Schedule shall be construed as a reference to the said Part I as varied by this Order and every reference in the Act to Part II of the Fourth Schedule shall be construed as including a reference to paragraph 12 thereof added by this Order.

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(a) 1948 c. 63.

(b) S.I. 1951/2168.

(c) 1889 c. 63.

*Application of paragraph 12 of the Fourth Schedule*

4.—(1) Where the tenant entered into occupation of the holding on or after the 1st day of March 1948 but before the coming into operation of this Order, section 47(1) of the Act shall not apply to him so far as regards the matters specified in the said paragraph 12 of Part II of the Fourth Schedule to the Act unless, before termination of the tenancy, he gives notice in writing to the landlord stating that he elects that it is to apply to him as regards those matters.

(2) In the case mentioned in paragraph (a) of section 47(2) of the Act, the tenant shall not be entitled to give a notice under paragraph (1) of this Article after the expiration of the period mentioned in the said paragraph (a); and the said paragraph (a) shall have effect in relation to a notice under paragraph (1) of this Article as if for the words “the matters specified in Part II of the Fourth Schedule” there were substituted the words “the matter specified in paragraph 12 of Part II of the Fourth Schedule”.

(3) In a case where, by virtue of paragraph (1) of this Article, the said section 47(1) does not apply to the tenant as regards the matters specified in the said paragraph 12 of Part II of the Fourth Schedule to the said Act—

- (a) subsections (2) and (3) of section 56 and subsection (2) (other than the proviso) of section 63 of the Act shall have effect as if the references therein to any such matter as is specified in Part II of the Fourth Schedule did not include a reference to any matter specified in the said paragraph 12 of Part II of the Fourth Schedule; and
- (b) the proviso to section 64 and subsection (2) of section 65 of the said Act shall have effect as if the references therein to a matter or matters specified in Part II of the Fourth Schedule were references only to a matter or matters specified in the said paragraph 12 of Part II of the Fourth Schedule.

(4) Where the tenant entered into occupation of the holding before the 1st March 1948 and has before the coming into operation of this Order given a notice under proviso (c) to subsection (1) of section 47 of the Act—

- (a) the said subsection (1) shall apply to him as if the reference therein to any such matter as is specified in Part II of the Fourth Schedule did not include a reference to any matter specified in the said paragraph 12 of Part II of the Fourth Schedule; and
- (b) the three foregoing paragraphs of this Article shall apply to him as if he had entered into occupation of the holding on or after the said 1st March 1948 but before the coming into operation of this Order.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 28th March 1978.

(L.S.)

*John Silkin,*

Minister of Agriculture, Fisheries  
and Food.

## SCHEDULE

1. Part I of the Fourth Schedule to the Act shall be varied as follows:—

- (1) paragraph 3 (Chalking of land) shall be omitted;
- (2) in paragraph 5 (Liming of land), immediately after the word “Liming” there shall be inserted the words “(including chalking)”;
- (3) in paragraph 6 (Application to land of purchased manure), for the words “manure (including artificial manure)” there shall be substituted the words “manure and fertiliser, whether organic or inorganic”;
- (4) in paragraph 7 (Consumption on the holding of corn), for the words from “by” to the end there shall be substituted the words “by horses, cattle, sheep, pigs or poultry”.

2. (1) Part II of the Fourth Schedule to the Act shall be varied by the addition thereto of the following paragraph which shall be numbered 12:—

“12(1) Where a holding is situated in a district in which the growing of a succession of tillage crops on the same arable land is normal farming practice, the residual fertility value of the sod of the excess qualifying leys on the holding, if any: Provided that—

- (a) the qualifying leys comprising the excess qualifying leys shall be those indicated to be such by the tenant; and
- (b) qualifying leys laid down at the expense of the landlord without reimbursement by the tenant or any previous tenant of the holding or laid down by and at the expense of the tenant pursuant to agreement by him with the landlord for the establishment of a specified area of leys on the holding as a condition of the landlord giving consent to the ploughing or other destruction of permanent pasture or pursuant to a direction given by an arbitrator on a reference under section 10(1) of this Act, shall not be included in the excess qualifying leys.

(2) In this paragraph—

“leys” means land laid down with clover, grass, lucerne, sainfoin or other seeds, but does not include permanent pasture;

“qualifying leys” means—

- (a) leys continuously maintained as such for a period of three or more growing seasons since being laid down excluding, if the leys were undersown or autumn-sown, the calendar year in which the sowing took place, and
- (b) arable land which within the three growing seasons immediately preceding the termination of the tenancy was ley continuously maintained as aforesaid before being destroyed by ploughing or some other means for the production of a tillage crop or crops:

Provided that for the purpose of paragraph (a) above the destruction of a ley (by ploughing or some other means) followed as soon as practicable by re-seeding to a ley without sowing a crop in the interval between such destruction and such re-seeding shall be treated as not constituting a break in the continuity of the maintenance of the ley;

“the excess qualifying leys” means the area of qualifying leys on the holding at the termination of the tenancy which is equal to the area (if any) by which one third of the aggregate of the areas of leys on the holding on the following dates, namely,

- (a) at the termination of the tenancy,
  - (b) on the date one year prior to such termination, and
  - (c) on the date two years prior to such termination,
- exceeds the accepted proportion at the termination of the tenancy;

“the accepted proportion” means the area which represents the proportion which the aggregate area of the leys on the holding would be expected to bear to the area of the holding, excluding the permanent pasture thereon, in accordance with normal farming practice in the district or if a greater proportion is provided for by or under the terms of the tenancy, that proportion.”

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which comes into operation on 1st July 1978, implements certain recommendations of the Committee on Agricultural Valuation (a) by making certain amendments and an addition to the Fourth Schedule to the Agricultural Holdings Act 1948. The Fourth Schedule lists those improvements and other matters for which a tenant of an agricultural holding may be entitled to compensation from the landlord at the termination of the tenancy without requiring the consent of the landlord before the improvements are made.

The amendments to paragraphs 3, 5, 6 and 7 in Part I of the Fourth Schedule bring the wording of this Part into line with current views on the subjects. The omission of paragraph 3 and the amendment of paragraph 5 have the effect of coupling chalking of land with liming, the amendment of paragraph 6 is a change in nomenclature and the amendment of paragraph 7 extends compensation payable for consumption of feeding stuffs on the holding to feeding stuffs consumed thereon by poultry not folded on the land as part of a system of farming. The new paragraph 12 added to Part II of the Fourth Schedule confers on tenants of holdings in areas of the country where it is accepted farming practice for a succession of arable crops to be grown on the same arable land a right to compensation, in appropriate cases, for the sod fertility value of part of the qualifying leys (as defined in that paragraph) on the holding where the total area of such qualifying leys exceeds the proportion which the aggregate area of the leys on the holding would be expected to bear to the area of the holding, excluding permanent pasture, according to local farming practice or, if the tenancy agreement provides for a greater proportion, exceeds that proportion.

Paragraph 12 will apply to all tenancies commencing on and after 1st July 1978 and Article 4 of the Order contains provisions relating to tenancies current when the Order comes into operation and certain consequential provisions relating thereto. Briefly, paragraph 12 will not apply to a tenant in occupation of a holding on 1st July 1978 unless he so elects in accordance with the provisions of Article 4. Any election already made before that date by such a tenant who was also in occupation when the existing provisions of Part II of the Fourth Schedule came into force in relation to those provisions will not operate to apply paragraph 12 to that tenant; a specific election will be required to be made by that tenant if paragraph 12 is to apply to him.

This Order required the approval of each House of Parliament by resolution after it was made. The necessary resolutions were passed by the House of Commons on 5th May 1978 and by the House of Lords on 19th May 1978.

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(a) Third Report, HMSO (1969) and Fourth Report, HMSO (1977).

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