

**2007 No. 3105**

**AGRICULTURE**

**The Agricultural Land Tribunals (Rules) Order 2007**

*Made* - - - - 25th October 2007

*Laid before Parliament* 31st October 2007

*Coming into force* - - 15th January 2008

The Lord Chancellor makes the following Order, in exercise of the powers conferred on him by section 73(3) and (4) of the Agriculture Act 1947(a), section 6(4) and (6) of the Agriculture (Miscellaneous Provisions) Act 1954(b) and section 67(7) of the Agricultural Holdings Act 1986 (c), and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(d).

**Citation and commencement**

1. This Order may be cited as the Agricultural Land Tribunals (Rules) Order 2007 and comes into force on 15th January 2008.

**Agricultural Land Tribunals Rules**

2.—(1) The Schedule (Agricultural Land Tribunals Rules) has effect.

(2) The Rules set out in that Schedule may be cited as the Agricultural Land Tribunals Rules 2007.

**Revocations and savings**

3.—(1) The Agricultural Land Tribunals (Rules) Order 1978(e) and the Agricultural Land Tribunals (Succession to Agricultural Tenancies) Order 1984(f) are revoked.

(2) Where an application to an Agricultural Land Tribunal—

- (a) has been made before the commencement of this Order;
- (b) is made after the commencement of this Order for a direction entitling the applicant to a tenancy of an agricultural holding on the death or retirement of the tenant when the date of death or the giving of the retirement notice was before the commencement of this Order; or
- (c) is made after the commencement of this Order for the Tribunal's consent to operation of notice to quit when the date on which the tenant served a counter-notice in writing

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(a) 1947 c.48.  
(b) 1954 c.39.  
(c) 1986 c.5.  
(d) 1992 c.53.  
(e) S.I. 1978/259.  
(f) S.I. 1984/1301.

requiring section 26(1) of the Agricultural Holdings Act 1986 shall apply to the notice to quit was before the date of the commencement of this Order,

the Agricultural Land Tribunals (Rules) Order 1978 or the Agricultural Land Tribunals (Succession to Agricultural Tenancies) Order 1984, as the case may be, continue to apply to that application as if they had not been revoked.

Signed on the authority of the Lord Chancellor

*Bridget Prentice*  
Parliamentary Under Secretary of State  
Ministry of Justice

25th October 2007

## SCHEDULE

Article 2

### Agricultural Land Tribunals Rules

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# PART 1

## Interpretation

### Interpretation

1. In these Rules, unless the context otherwise requires, the following definitions apply—
- “the 1947 Act” means the Agriculture Act 1947;
- “the 1954 Act” means the Agriculture (Miscellaneous Provisions) Act 1954;
- “the 1986 Act” means the Agricultural Holding Act 1986;
- “the 1991 Act” means the Land Drainage Act 1991(a);
- “application” means an application to the Tribunal and “apply” and “applicant” have corresponding meanings;
- “Chairman” means—
- (a) the Chairman of the Tribunal;
  - (b) a person nominated under paragraph 16(1) of Schedule 9 to the 1947 Act to act as Chairman at any hearing; or
  - (c) a person appointed under paragraph 16(A) of that Schedule to act as Chairman;
- “confidential matter” means any matter that relates to intimate personal, medical or financial circumstances or national security, or is commercially sensitive, or consists of information communicated or obtained in confidence;
- “costs” means any costs that the Tribunal has the authority to award under section 5 of the 1954 Act or section 27(7) of the 1986 Act;
- “decision” means a decision of the Tribunal on the application before it or any substantive issue that arises in it, and includes a dismissal of an application or reply;
- “decision document” has the meaning given by rule 30(4);
- “designated applicant” means a person who is validly designated by the deceased in his will in accordance with section 39(4) of the 1986 Act;
- “direction” means any order or other determination by a Tribunal or the Chairman other than a decision;
- “document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information—
- (a) in legible form; or
  - (b) in a form from which it can be readily produced in a legible form;
- “drainage case” means proceedings started by an application under the 1991 Act;
- “holding” means land (including a ditch) in respect of which an application is made;
- “interested party” includes—
- (a) in the case of an application under section 39 of the 1986 Act—
    - (i) any other applicant under that section or any other person eligible to be such an applicant;
    - (ii) any personal representative of the deceased tenant, any person eligible to apply to be the personal representative of the deceased tenant or any person administering the estate of the deceased tenant;
  - (b) in the case of an application under section 53 of the 1986 Act, the tenant of the holding, but does not include the applicant or the respondent;

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(a) 1991 c.59.

“the landlord” means the landlord of the holding;

“other applicant” means any person who is also making an application in respect of the same or some of the same land;

“the official expert” means a person who for his agricultural, drainage or similar expertise is engaged by the Secretary of State or the Welsh Ministers, as the case may be, to report or act on behalf of the Secretary of State or Welsh Ministers in connection with the application;

“party” means the applicant or respondent;

“register” means the register of applications and decisions kept by the Secretary;

“reply” includes a reply by a respondent or interested party as provided for in rule 4 of these Rules;

“respondent” means a person against whom any application is made or any person added or substituted as a respondent;

“the Secretary” means the person for the time being acting as Secretary of the Tribunal and includes any assistant Secretary or other officer or servant appointed under paragraph 22 of Schedule 9 to the 1947 Act;

“the Tribunal” means the Agricultural Land Tribunal for the area in which the whole or the greater part of the holding is situated, or, where the proceedings are transferred, means the Agricultural Land Tribunal to which they have been transferred.

## PART 2

### Applications and replies

#### **Making an application**

2.—(1) An application to the Tribunal must be made in writing.

(2) The application must state —

- (a) the name and address of the applicant;
- (b) the name and address of every respondent;
- (c) the address, description and area of all land which is referred to in the application;
- (d) the reasons for the application including particulars of any hardship to the applicant;
- (e) the order and every other remedy which the applicant seeks;
- (f) the name and address of every person who appears to the applicant to be an interested party, with reasons for that person’s interest;
- (g) where the applicant bases his application on the ground of hardship to any person other than himself, the name and address of each such person and particulars of the hardship on which the applicant relies; and
- (h) the name, address and profession of any representative of the applicant and whether the Tribunal should deliver notices concerning the application to the representative instead of to the applicant.

(3) The application and any supporting written statement must state at the end “I believe that the facts stated in this document are true” and be signed by the applicant or the applicant’s representative.

(4) The application, any supporting written statement and any accompanying material must be delivered to the Secretary, together with copies of those documents for all respondents.

#### **Acknowledgement, registration and delivery of applications**

3.—(1) Upon receiving an application the Secretary must—

- (a) deliver an acknowledgement of its receipt to the applicant or the applicant's representative;
- (b) enter brief particulars of it in the register; and
- (c) deliver copies of the application to the named respondents.

(2) The Secretary must, at the same time, advise the applicant or the applicant's representative, the respondents and interested parties in writing of the following information—

- (a) the title of the proceedings;
- (b) the case number of the application entered in the register;
- (c) the address to which notices and other communications to the Tribunal must be delivered;
- (d) any further steps which they must take; and
- (e) that general procedural guidance in relation to the proceedings may be obtained from the office of the Tribunal.

**Action by respondent on receipt of an application**

4.—(1) A respondent who receives a copy of an application must deliver to the Secretary a written reply acknowledging receipt of the application and setting out—

- (a) the title of the proceedings, the name of the applicant and the case number;
- (b) his name and address and the name and address of every person who appears to the respondent to be an interested party who is not already named in the application, with reasons for that person's interest;
- (c) a statement whether or not he intends to resist the application and, if so, the reasons for resisting it or the position he will adopt;
- (d) whether he intends to be present or be represented at any hearing; and
- (e) the name, address and the profession of any representative and whether the Tribunal should deliver notices concerning the application to the representative instead of to the respondent.

(2) The reply must state at the end "I believe that the facts stated in this document are true" and be signed by the respondent or the respondent's representative and must be delivered to the Secretary within one month of the date on which the application was delivered to the respondent by the Secretary.

(3) Copies of the reply and any accompanying material must be provided to the Secretary for all applicants.

(4) The Secretary must deliver copies of the reply to the applicant.

(5) A reply which is delivered to the Secretary after the time appointed by paragraph (3) which contains the respondent's reasons for the delay must be treated as including an application for an extension of the time so appointed.

(6) Subject to rules 39 and 40(6), a respondent who has not delivered a written reply within the time appointed or extended may not, without the approval of the Chairman, take any part in the proceedings before the Tribunal on the application except—

- (a) to apply for an extension of time for delivering a reply;
- (b) to apply for a direction that the applicant provide further particulars of his application;
- (c) to apply under rule 32 for a review of the Tribunal's decision for the reason that the respondent did not receive the application or statement of reasons or was not able to deliver a reply;
- (d) to be called as a witness; or
- (e) to be delivered a copy of a decision or corrected decision.

### **Additional matters**

5. The applicant or respondent may include in the application or reply, or in a separate application to the Tribunal, as appropriate—

- (a) a request for disclosure of any document or additional information about an application or reply;
- (b) a request for an early hearing of the application or of any question relating to the application, with the reasons for that request;
- (c) consent to the matter being dealt with on written representations only;
- (d) an application under rule 27(2) for permission to rely on the evidence of more than two experts;
- (e) a request for a decision on any question as a preliminary issue.

### **Withdrawal of application or reply**

6.—(1) A party may withdraw his application or reply—

- (a) at any time before the hearing of the application by delivering to the Secretary a notice signed by the party or the party's representative stating that the application or reply is withdrawn; or
- (b) at the hearing of the application, with the permission of the Tribunal.

(2) The withdrawal of an application or reply does not prevent the Tribunal from exercising its power to award costs.

(3) Any application for such an award of costs must be made promptly.

### **Documents and other material to accompany application or reply**

7.—(1) A party must deliver with his application or reply two copies of the following documents (with copies for all other parties)—

- (a) maps of any land which is referred to in the application or reply on a scale of 1/10,000 or larger;
- (b) every other map (which, where possible, should be on a scale of 1/10,000 or larger), plan, certificate, report or other document which he intends to rely upon for the purposes of his application or reply.

(2) The Chairman may excuse a party from providing any document referred to in paragraph (1) where the document could more conveniently be provided by some other party or where it would be unreasonable on the grounds of expense or otherwise to require it to be delivered at this stage.

(3) A party need not provide a document if copies have already been delivered to the Secretary.

## **PART 3**

### **Preliminary procedures**

#### **Amendment of application or reply**

8.—(1) A party may, at any time before he is notified of the date of the hearing of the application, amend his application or reply, or deliver a supplementary statement of reasons for the application or reply.

(2) A party may amend his application or reply with the permission of the Chairman at any time after he has been notified of the date of the hearing of the application or at the hearing itself with the permission of the Tribunal and such permission may be granted on terms that the Chairman or Tribunal thinks fit.

(3) A party must deliver a copy of every amendment and supplementary statement to the Secretary and to all other parties.

#### **Action by interested parties on receipt of copy of application or reply**

**9.**—(1) An interested party may give notice to the Secretary that he wishes to take part in the proceedings as a respondent.

(2) That person must include in the notice—

- (a) the title of the proceedings, the name of the applicant and the case number;
- (b) his name and address and the name and address of every person who appears to him to be an interested party who is not already named in the application, with reasons for that person's interest;
- (c) a statement whether or not he intends to resist the application and, if so, the reasons for resisting and or the position he will adopt;
- (d) whether he intends to be present or be represented at any hearing; and
- (e) the name, address and the profession of any representative and whether the Tribunal should deliver notices concerning the application to the representative instead of to him.

(3) A person who wishes to take part in the proceedings must deliver to the Secretary copies of the notice and accompanying documents to enable the Secretary to send a copy to each of the other parties.

(4) A notice given under this rule shall, if the person giving it is made a respondent to the proceedings, be treated as that person's reply to the application.

#### **Addition of new parties to the proceedings**

**10.** If the Chairman considers, whether on the application of a party or otherwise, that it is desirable that a person having an interest in the proceedings be made a party, the Chairman may order that person to be joined as a respondent or, with the consent of that person, as an applicant and may give any consequential directions which may be just including directions as to the delivery of documents.

#### **Directions**

**11.**—(1) At any stage of the proceedings the Chairman may, either of his own initiative or on the application of a party, give the directions he considers necessary or desirable in the conduct of the application, and may in particular—

- (a) direct any party to provide, to the Tribunal and to the other parties, any further information or supplementary statements or to produce any documents or copies of any documents which may reasonably be required;
- (b) where a party has access to information which is not reasonably available to the other party, direct the party who has access to the information to prepare and file a summary recording the information;
- (c) direct a party who wishes to rely on the evidence of any witness to deliver a signed statement or report of that witness to the Secretary and to the other parties;
- (d) give a direction as to—
  - (i) the issues on which the Tribunal may require evidence;
  - (ii) the nature of that evidence; and
  - (iii) the way in which the evidence is to be placed before the Tribunal;
- (e) by direction exclude evidence that would otherwise be admissible if the evidence is irrelevant, unnecessary or improperly obtained;
- (f) by direction limit cross-examination;



(g) direct any party to lodge before the hearing an outline argument; or

(h) give any direction necessary in the exercise of any of powers conferred by these Rules.

(2) It is a condition of the supply of any document that a party must only use the document supplied for the purposes of the proceedings.

(3) A party cannot be directed to produce any document which a party could not be compelled to produce on the trial of an action in a court of law.

(4) In giving effect to this rule, the Chairman must take into account the need to protect any matter that relates to confidential material.

### **Case management meeting**

**12.**—(1) If the Chairman concludes that any proceedings would be facilitated by holding a case management meeting, he may, on the application of a party or on his own initiative, give directions for a case management meeting to be held.

(2) The Secretary must give the parties not less than 14 days' notice, or a shorter time if agreed by all parties, of the time and the place of the case management meeting.

(3) At a case management meeting the Chairman must give all directions which appear necessary or desirable for the conduct of the application and where appropriate set a time and place for the hearing of the application and a timetable for the hearing.

(4) The Chairman may encourage parties or their expert witnesses to meet with a view to resolving the dispute without a hearing or with a view to narrowing the issues for the hearing.

### **Preliminary issues**

**13.**—(1) The Chairman may direct that any question of fact or law which appears to be in issue in the application be decided at a preliminary hearing.

(2) If, in the opinion of the Tribunal, deciding that question substantially disposes of the whole application, the Tribunal may treat the preliminary hearing as the hearing of the application and may give such direction as it thinks fit to dispose of the application.

(3) The Tribunal may decide the question and may also dispose of the application without a further hearing, but, in each case, only if—

(a) the parties so agree and the Tribunal has considered any representations made by them;

(b) having regard to the material before it and the nature of the issues raised, to do so would not prejudice the administration of justice; and

(c) there is no important public interest consideration that requires a hearing in public.

(4) Rule 30 applies to the Tribunal's decisions on a preliminary issue.

### **Varying or setting aside of directions**

**14.** Where a person to whom a direction issued under these Rules is addressed had no opportunity of objecting to the giving of the direction, that person may apply to the Tribunal, or Chairman as appropriate, to vary it or set it aside, but the Chairman or Tribunal must not do so without first notifying the parties and considering any representations made by them.

### **Failure to comply with directions**

**15.**—(1) If any direction given to a party under these Rules is not complied with by that party, the Tribunal may, before or at the hearing—

(a) dismiss the whole or part of the application; or

(b) strike out the whole or part of a reply and, where appropriate, direct that a respondent is debarred from contesting the application altogether or some part of it.

(2) But a Tribunal must not dismiss, strike out or give such a direction unless notice has been delivered to the party who has not complied, giving that party an opportunity to comply within the period specified in the notice or to establish why the Tribunal should not dismiss, strike out or give such a direction.

### **Notice of date, time and place**

16.—(1) Subject to any direction of the Chairman, the Secretary must, with due regard to the reasonable convenience of the parties, and as soon as reasonably practicable, fix the date, time and place of a hearing and, where appropriate, set a timetable for the hearing and, not less than 14 days before the first date fixed (or a shorter time if agreed by the parties), deliver to each party a notice that the hearing is to be or commence on that date and at that time and place and the details of any timetable for the hearing.

(2) The Secretary must include with the notice of hearing—

- (a) information and guidance as to attendance at the hearing of the parties and witnesses, the bringing of documents, and the right of representation or assistance by another person and the procedure applicable to the hearing, having regard to any applicable burden and standard of proof and rules of evidence;
- (b) a statement of the right of the parties to receive reasons in writing for a decision of the Tribunal unless the decision is made by consent of all parties;
- (c) a statement explaining the advantages of attendance, the consequences of non-attendance, and the right of an applicant and of any party who has presented a reply, who does not intend to be present or represented at the hearing, to deliver to the Secretary and the other parties, before the hearing, additional written representations or evidence in support of their case; and
- (d) a request to be informed of any special requirements, such as for wheelchair access, which a party, representative or witness may have.

(3) When a party receives the notice of the date, time and place of the hearing, he must inform the Secretary whether or not he intends to be present or represented at the hearing, and whether he intends to call witnesses and, if so, their names.

### **Public notice of hearings**

17. The Secretary must provide for public inspection at the office of the Tribunal or through other media a list of all applications for which a hearing is to be held and of the time and place fixed for the hearing.

### **Consolidation or hearing together of applications**

18.—(1) Where two or more applications have been lodged in respect of the same subject matter, or in respect of several interests in the same subject matter, or which involve the same or similar issues, the Chairman may, on the application of any party to the applications or on his own initiative, direct that the applications or any particular issue or matter raised in the applications be consolidated or heard together or consecutively.

(2) Before giving a direction under this rule, unless all parties have consented, the Secretary must give notice to the parties to the applications and the Chairman must consider any representations made in consequence of the notice.

(3) Subject to any specific provisions of these Rules or directions by the Chairman, all applications to the Tribunal in respect of any particular holding, whether made by the landlord or tenant, must be heard and determined together.

### **Power to decide application without a hearing**

19.—(1) The Tribunal may (except in a drainage case) deal with an application or preliminary issue without a hearing if—

- (a) no reply is delivered to the Secretary within the time appointed by rule 4 or any extension of time granted under rule 51 or the parties agree in writing or the respondent states in writing that he does not oppose the application;
- (b) there is no other opposition to the application;
- (c) having regard to the material before the Tribunal and the nature of the issues raised by the application the Tribunal considers that to do so will not prejudice the administration of justice; and
- (d) there is no important public interest consideration that requires a hearing in public.

(2) Before deciding an application in the absence of a party, the Tribunal must consider any representations in writing submitted by that party in response to a notice of hearing.

(3) Nothing in this rule prevents a party from making an application for a review of the Tribunal's decision under rule 32.

### **Hearing bundles**

**20.**—(1) When practicable and subject to any directions that the Chairman may make, the applicant must compile a hearing bundle containing copies of all relevant documents.

(2) The respondent must assist with the preparation of the hearing bundle.

(3) The contents must be agreed, indexed and paginated.

(4) The applicant must deliver four copies of the bundle to the Secretary and one copy to each of the parties not less than 7 days before the start of the hearing.

## **PART 4**

### **Hearings and decisions**

#### **Hearings to be in public**

**21.**—(1) All hearings by the Tribunal must be in public unless the Tribunal is satisfied that, by reason of disclosure of confidential matters it is just and reasonable to hold the hearing or part of a hearing in private.

(2) Subject to any direction by the Tribunal hearing the proceedings, any Chairman of any Agricultural Land Tribunal or any member of a panel for the Tribunal, notwithstanding that he is not part of the Tribunal for the purpose of the hearing, and the Secretary is entitled to attend a hearing whether or not it is in private.

(3) The Tribunal, with the consent of the parties, may permit any other person to attend the hearing of an application which is held in private.

#### **Failure of parties to attend**

**22.**—(1) If a party fails to attend or be represented at a hearing, the Tribunal may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence—

(a) hear and decide the application or question in the party's absence; or

(b) adjourn the hearing,

and may give such directions as it thinks fit.

(2) Before deciding to dispose of any application or question in the absence of a party, the Tribunal must consider the application and any reply, as appropriate, and any written representations or evidence supplied.

(3) Where an applicant has failed to attend or be represented at a hearing of which he was duly notified, and the Tribunal has disposed of the application, no fresh application may be made by the

applicant to the Tribunal for relief arising out of the same facts without the prior permission of the Tribunal.

(4) Nothing in this rule prevents the applicant making an application for a review of the Tribunal's decision under rule 32.

### **Procedure at hearing**

**23.**—(1) At the beginning of any hearing the Chairman may explain the manner and order of proceeding, having regard to any applicable burden and standard of proof and rules of evidence.

(2) The Tribunal—

- (a) may conduct the hearing in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings; and
- (b) must, so far as it appears to it appropriate, seek to avoid formality and inflexibility in its proceedings.

(3) The parties may appear at the hearing and may be represented.

(4) The parties may give evidence, call witnesses, question any witnesses and address the Tribunal both on the evidence and generally on the subject matter of the application.

(5) The Tribunal may at any stage of the proceedings direct the personal attendance of any maker of a witness statement or deponent of an affidavit, or any expert whose report has been filed.

(6) The Tribunal may receive evidence of any fact which seems to the Tribunal to be relevant even if the evidence would be inadmissible in law but, subject to rule 27, must not refuse to admit any evidence presented in due time which is admissible in law and is relevant and necessary and has not been improperly obtained.

### **Evidence of witnesses**

**24.**—(1) Except where the Chairman otherwise directs, any party who wishes to rely on the evidence of any witness must deliver a statement of that witness to the Secretary and must deliver copies to every party at least 10 days before the date of the hearing.

(2) The witness statement must state at the end "I believe that the facts stated in this witness statement are true" and be signed by the witness.

### **Entry on land or premises**

**25.**—(1) For the purpose of enabling the Tribunal to understand the issues in any proceedings before it, the Chairman may give a direction requiring the occupier of any land or premises which are relevant to the proceedings to permit the Tribunal (and any party, party's representative, expert witness, official expert and any of the Tribunal's officers or members of its staff as the Chairman considers necessary) to enter and inspect the land or premises.

(2) The direction must specify a date and time for the entry and inspection at least 24 hours (or 7 days in drainage cases) after the date when a copy of the direction is delivered to the occupier or the occupier is notified of any change in the date specified.

(3) This direction can be given in a notice of hearing.

(4) If notice of the Tribunal's intention to enter and inspect any land or premises is given orally at a hearing, the Tribunal may waive the 24 hours' minimum notice requirement under paragraph (2).

(5) The Secretary must deliver a copy of the direction to the parties and must notify them of any change in the date or time specified.

### **Inspection of land or premises by official expert**

26.—(1) The Chairman may direct any person who owns or occupies any land or premises which are relevant to the proceedings to permit the official expert to enter and inspect the land or premises for the purpose for which he was appointed.

(2) Every such direction must, unless the occupier was present when the direction was made, contain a statement informing the occupier that he may apply to the Chairman to vary or set aside the direction.

(3) The occupier of the land or premises and the other parties must be given at least seven days notice of any inspection, unless the occupier and the other parties agree in writing to a shorter period of notice.

(4) That inspection must take place during the hours of daylight and must take place on a business day unless there is good reason or the occupier and parties consent for the inspection to take place on another day.

(5) The Secretary must deliver a copy of the report of the official expert and any written statement made by or on behalf of the Secretary of State or the Welsh Ministers to each of the parties and inform them that they may make written comments (with copies for all other parties and the official expert) as to the contents of the report within one month (or such other period as the Chairman directs) of receiving the report.

(6) Rules 27, 28 and 29 apply to the report and evidence of the official expert.

(7) In this rule, “business day” means any day except Saturday, Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971(a).

### **Expert evidence**

27.—(1) No expert may give oral evidence unless he has provided a written report which has been previously delivered to all parties or the Chairman otherwise directs.

(2) No party may rely on the evidence of more than two experts without the Chairman’s permission.

(3) An application for permission must state—

- (a) the reasons why the party wishes to rely on further expert evidence; and
- (b) where practicable, the name and address of the experts on whose evidence the party wishes to rely.

(4) If permission is granted it must be in relation only to the experts named and the reasons identified under paragraph (3).

### **Expert’s overriding duty to the Tribunal**

28.—(1) It is the duty of an expert to help the Tribunal on the matters within his expertise.

(2) This duty overrides any obligation to the person from whom the expert has received instructions or by whom the expert is paid.

### **Form and content of expert’s report**

29.—(1) Expert evidence must be given in a written report unless the Chairman directs otherwise.

(2) Every expert must attend the oral hearing for cross-examination unless the Chairman directs otherwise.

(3) An expert’s report must be addressed to the Tribunal and not to the party from whom the expert has received instructions.

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(a) 1971 c.80.

- (4) The expert's report must contain—
- (a) details of the expert's qualifications;
  - (b) a statement of the substance of all material instructions whether written or oral, on the basis of which the report was written;
  - (c) details of any literature or any other material which the expert has relied on in making the report;
  - (d) where there is a range of opinion on the matter dealt with in the report—
    - (i) a summary of the range of opinion; and
    - (ii) the reasons for the expert's own opinion;
  - (e) a summary of the conclusions reached; and
  - (f) a statement that the expert understands his duty to the Tribunal and has complied with that duty.
- (5) The expert report must be restricted to that which is reasonably required to resolve the proceedings.

### **Decision of Tribunal**

- 30.**—(1) A decision of the Tribunal may be taken by a majority.
- (2) The Chairman may, at or following the hearing, give the parties an informal, non-binding indication of the decision that the Tribunal is minded to make.
- (3) At any time before a decision document is signed by the Chairman, the Tribunal may reconsider of its own accord and if necessary may reconvene the hearing or request further submissions and may decide to make a different decision than previously informally indicated.
- (4) Whether there has been a hearing or not, every decision must be recorded in a document (the "decision document") which, except in the case of a decision by consent, must also contain a statement of the reasons for the decision and must be signed by the Chairman and dated.
- (5) The Secretary must deliver a certified copy of the decision document to each party.
- (6) Where any document refers to any evidence that has been heard in private, the material relating to that evidence must be omitted from the decision document as the Tribunal may direct.
- (7) Every copy of a document or entry delivered to the parties under this rule must be accompanied by a notification of the provisions in these Rules relating to review of the Tribunal's decision and reference to the High Court on a question of law.

### **Duty to adjourn part of hearing where time limits have not expired**

- 31.**—(1) Where on the date appointed for the hearing the time allowed for a response has not expired, or has not started to run, the Tribunal must not proceed to hear the application except with the consent of the party whose response has not been received.
- (2) Where consent is required but is not given, the Tribunal must adjourn the proceedings and the Chairman must give such directions as he considers appropriate for the further hearing of the proceedings.

### **Review of Tribunal's decision**

- 32.**—(1) If, on the application of a party or on its own initiative, a Tribunal is satisfied that—
- (a) its decision contains a clerical mistake or error arising from an accidental slip or omission or contains an ambiguity that should be clarified or removed;
  - (b) it should make an additional order or direction which relates to a matter which was presented to the Tribunal but was not dealt with in its decision or which is consequential to its decision;

- (c) a party, who was entitled to be heard at a hearing but failed to be present or represented, had a good reason for failing to be present or represented; or
- (d) new evidence, to which the decision relates, has become available since the conclusion of the proceedings and its existence could not reasonably have been known or foreseen before then,

the Tribunal may set aside or vary the relevant decision.

(2) An application under paragraph (1) must—

- (a) be made in writing stating the reasons in full; and
- (b) unless made at the hearing, be delivered to the Secretary within 28 days of a certified copy of the decision document being delivered to the person making the application.

(3) When the Tribunal proposes to review its decision on its own initiative, the Secretary must deliver notice of that proposal to the parties.

(4) The parties must have an opportunity to be heard on any application or proposal for review under this rule and the review must be decided by the Tribunal which decided the case or, where it is not practicable for it to be heard by that Tribunal, by a differently constituted Tribunal.

(5) If having reviewed the decision, the decision is set aside, the Tribunal must substitute the decision it thinks fit or order a rehearing before either the same or a differently constituted Tribunal.

(6) On the setting aside or variation of the Tribunal's decision, the Secretary must immediately make such correction as may be necessary in the register and deliver a copy of the entry so corrected and the decision document to each of the parties.

(7) Rule 30 applies to the Tribunal's decision on the review.

## PART 5

### Additional powers and provisions

#### **Power to regulate procedure etc.**

**33.—**(1) Subject to the provisions of the 1947 Act, the 1954 Act, the 1986 Act, and the 1991 Act and of these Rules—

- (a) the Tribunal may regulate its own procedure;
- (b) the Chairman may regulate procedure at a case management meeting and any other meeting chaired by him alone.

(2) The Tribunal may exercise any power which these Rules give to the Chairman.

#### **Power to strike out**

**34.—**(1) On the application of any party, the Tribunal may order that all or part of the application, reply or any document supplied in the course of an application be struck out if it appears to the Tribunal that it—

- (a) discloses no reasonable grounds for making or defending the application; or
- (b) is an abuse of the Tribunal's process or is otherwise likely to obstruct the fair disposal of the proceedings.

(2) The Secretary must deliver to the parties copies of an application for an order under this rule, and inform the parties of their opportunity to reply within 28 days or such period as the Chairman considers appropriate explaining why such an order should or should not be made.

#### **Exclusion of persons disrupting proceedings**

**35.—**(1) This rule applies to any of the following events—

- (a) a hearing before the Tribunal;
- (b) an inspection by the Tribunal;
- (c) any meeting chaired by the Chairman alone;
- (d) an inspection conducted by an official expert.

(2) Without prejudice to any other powers it may have, the Chairman or Tribunal, as appropriate, may—

- (a) exclude from any event, or part of it, any person (including a party or a party's representative) whose conduct has disrupted the event, threatens to disrupt the event, or whose conduct has otherwise interfered with the administration of justice; or
- (b) limit the number of persons attending the event in the interests of disease prevention or for other good reason.

(3) In deciding whether to exercise the power conferred by paragraph (2), the Chairman or Tribunal as appropriate, must, apart from other considerations, have regard—

- (a) to the interests of the parties;
- (b) in the case of the exclusion of a party, to the extent to which the proceedings involve an assessment of the party's conduct, character or manner of life; and
- (c) in the case of the exclusion of a party or a party's representative, to whether the interests of that party will be adequately protected.

(4) If the Chairman or Tribunal decides to exclude a party it must allow the party's representative sufficient opportunity to consult the party.

#### **Enquiries of local authorities etc**

36. The Chairman or the Tribunal either before or during a hearing may direct that enquiries are made of any local or other public authority or utility within whose area the land in question is situated, and the Tribunal may adjourn the hearing until the response to such enquiries has been received and copies supplied to the parties.

#### **Reference to the High Court of a question of law**

37.—(1) A request under section 6(1) of the 1954 Act must, unless made at the hearing, be made in writing to the Secretary within 28 days of a certified copy of the decision being delivered to the person making the request.

(2) The request must state concisely—

- (a) the questions of law that the party making the request wishes the Tribunal to refer to the High Court; and
- (b) any issues of fact in respect of which that party contends the findings (in addition to those contained in any decision made by the Tribunal) should accompany the case stated.

(3) The Chairman may direct the party making the request to supply a draft of the case stated.

(4) If the Chairman considers that any question of law referred to in the request (or draft case stated) could be better framed or that it is desirable or expedient to add or substitute a similar or related question, he may invite the party making the request to amend the request (or draft) accordingly.

(5) If the Tribunal decides to refuse the request, the Secretary must notify all parties within 14 days of the receipt of the request giving reasons for such refusal or within such extended period as the Chairman may consider necessary.

(6) A person who intends to apply to the High Court under section 6(2) of the 1954 Act for an order directing the Tribunal to refer a question of law to the High Court—

- (a) must deliver notice of his intended application to the Secretary within 14 days of receiving notification of the refusal; and
- (b) must deliver copies of his notice to all other parties.



- (7) A case stated for the decision of the High Court must—
- (a) set out the questions of law;
  - (b) attach a copy of any decision document issued by the Tribunal in relation to the proceedings;
  - (c) set out such findings of fact by the Tribunal additional to those contained in the decision document as the Chairman considers relevant to the question or questions of law;
  - (d) be signed by the Chairman; and
  - (e) be delivered to all parties within 2 months of the date of the request or, as the case may be, the making of an order by the High Court directing the reference.

### **Modification of Tribunal's decision following High Court proceedings**

**38.**—(1) Following a decision of the High Court the Chairman may exercise the powers of the Tribunal under section 6(5) of the 1954 Act in any case if he considers that it is not necessary to convene the Tribunal for the purpose.

(2) In every other case he must direct the Secretary to fix a date, time and place for the Tribunal to convene.

(3) Where it is not possible or convenient to re-convene the Tribunal as originally constituted, the hearing must take place before a differently constituted Tribunal.

(4) These Rules apply to any proceedings which are consequent on the reference of any question to the High Court under section 6 of the 1954 Act or on the decision on such a reference.

## **PART 6**

### **Specific applications**

#### **Consent to operation of notice to quit**

**39.** An application for the Tribunal's consent to the operation of a notice to quit under section 26(1) or 28(2) of the 1986 Act which is made by the landlord after service upon him by the tenant of a counter-notice must be made within one month of the service of the counter-notice.

#### **Succession on death or retirement**

**40.**—(1) This rule applies to an application made under section 39 or section 53 of the 1986 Act.

(2) Before making such an application, the applicant must deliver a notice in writing of his intention to do so to all interested parties.

(3) The applicant must include in his application, in addition to the information required by rule 2(2), confirmation that he has notified the interested parties.

(4) In the case of proceedings under section 39 of the 1986 Act, an applicant who opposes or intends to oppose any other application under that section may include in his own application, or in a separate reply, the following information, in addition to the information required by rule 2(2)—

- (a) reasons why he opposes or intends to oppose that other application;
- (b) a statement indicating whether he disputes that applicant's claim to be a designated applicant and, if so, why;
- (c) a claim to be a more suitable applicant than any other;
- (d) a statement that he has agreed with one or more other applicants to request the landlord's consent to a direction entitling them to a joint tenancy of the holding.

(5) If any person entitled to make an application under section 39 of the 1986 Act supplies the information under paragraph (4), he may present evidence and make representations to the Tribunal that he is more suitable to be a tenant than any other applicant.

(6) If the landlord does not reply to an application under section 39 or 53 of the 1986 Act within the time allowed by rule 4(3), he is not entitled to dispute any matter alleged in the application form but—

- (a) in the case of an application under section 39 or 53, the landlord is entitled to give his views on the suitability of the applicant; and
- (b) in the case of an application under section 39, the landlord may where appropriate make an application under section 44 of the 1986 Act for consent to the operation of a notice to quit.

### **Applications under sections 44, 46 or 55 of the 1986 Act**

**41.**—(1) Where, at the expiry of the period specified in section 39(1) of the 1986 Act, only one application under that section in respect of the holding has been made, any application by the landlord under section 44(1) of that Act must be made before the expiry of one month after the end of that period or, if later, one month after a copy of the application under section 39 is delivered to him.

(2) Where at the expiry of that period more than one application under section 39 of the 1986 Act has been made, any application by the landlord under section 44(1) of that Act must be made before the expiry of one month after notice is delivered to him by the Secretary that the number of applications under section 39 of the 1986 Act is reduced to one or such earlier date as the Chairman directs.

(3) Any application under section 44(6), section 46(2)(a) or section 55(8)(a) of the 1986 Act must be made in writing to the Secretary before the hearing, or orally at the hearing.

### **Procedure at hearing in case of multiple applicants where designation is claimed**

**42.**—(1) In the case of proceedings under section 39 of the 1986 Act, the Tribunal must (in such order as the Tribunal considers appropriate) consider and determine the validity of each applicant's claim, if any, to be a designated applicant, giving all other parties and all other applicants for succession the opportunity to be heard.

(2) If the Tribunal determines that any such claim is valid, the Tribunal must then hear that applicant's application as if that applicant were the only applicant and, if the Tribunal determines that the applicant is a suitable person to become the tenant of the holding, the Tribunal must dismiss all other applications under section 39(1) of the 1986 Act in respect of the same holding.

(3) If the Tribunal determines that the designated applicant is not a suitable person to become a tenant of the holding, the Tribunal must dismiss his application.

### **Multiple applications under the 1986 Act where there is no designated applicant**

**43.**—(1) The Tribunal must, subject to any direction by the Chairman, consider any question of eligibility or suitability by applying the 1986 Act in the following order—

- (a) any question arising under section 41(3) of the 1986 Act (treatment as eligible person);
- (b) any question of eligibility under section 39(2) of the 1986 Act, as applied by section 39(3) of that Act;
- (c) any question of suitability under section 39(2) of the 1986 Act, as applied by section 39(3) of that Act;
- (d) any exercise of discretion under section 39(9) of the 1986 Act (direction for joint tenancy);
- (e) any question of relative suitability under section 39(6) of the 1986 Act;
- (f) any question arising under section 39(10) of the 1986 Act (tenancy of part of holding);

- (g) any question arising under section 44 of the 1986 Act (consent to operation of notice to quit).
- (2) Before giving a direction under section 39(9) of the 1986 Act, the Tribunal must—
  - (a) ask the landlord if he consents to the giving of a direction; and
  - (b) consider any representations made by other suitable applicants.
- (3) The landlord will be deemed not to consent under section 39(9) of the 1986 Act if he does not respond to the Secretary within the period specified by the Chairman.
- (4) Before giving a direction under section 39(10) of the 1986 Act, the Tribunal must ask each applicant whether he agrees.

#### **Applications under section 67 of the 1986 Act**

44. The period prescribed by these Rules within which a landlord may serve a notice under section 67(5) of the 1986 Act that he proposes himself to carry out an improvement is one month from the date on which notice in writing of the Tribunal's approval of the carrying out of the improvement is delivered to him.

#### **Applications under the Land Drainage Act 1991**

45.—(1) On receipt of an application in a drainage case, the Secretary must request the Secretary of State or the Welsh Ministers, as the case may be, to provide the Tribunal with a report on the matters to which the application relates.

(2) A report made under this rule may make recommendations to the Tribunal regarding the application.

(3) The reply delivered under rule 4 may state the respondent's position pending receipt of the report from the official expert and the applicant's comments on the recommendations in that report.

(4) On receipt of the report, the Secretary must deliver a copy to every party.

(5) The applicant must, within one month of delivery of a copy of the report to him, deliver to the Secretary written comments on the report (with copies for all other parties and the official expert), including in particular whether, and if so, why they dispute any of the facts or recommendations.

(6) The Secretary must deliver to the respondent a copy of the applicant's comments and request written comments from the respondent within one month including whether, and if so, why they dispute any of the facts or recommendations.

(7) At the expiry of the one month period referred to in the preceding paragraph, the Secretary must deliver to each party a copy of comments received from every other party.

(8) Each party has a further month from the date of receipt of copies of the comments to write to the Secretary supplementing their original comments and paragraph (7) applies as to delivery of any supplementary comments received by the Secretary.

(9) A report under this rule is prima facie evidence of the facts to which it refers.

(10) Where a report under this rule recommends that an order be made, the Tribunal may make such an order without a hearing if the following conditions are met—

- (a) the report recommends that a specified party to the proceedings should be required or authorised to carry out any work or authorised to enter any land;
- (b) that person has notified the Secretary of his acceptance of the recommendation; and
- (c) every other party has—
  - (i) notified the Secretary of his acceptance of the recommendation;
  - (ii) failed to reply to the application within the time allowed; or
  - (iii) withdrawn their reply.

(11) The Tribunal may, after giving all parties an opportunity to be heard, vary an order made following a decision in a land drainage case, whether as to the time within which any work is to be carried out or otherwise.

(12) An application for such a variation must set out the variation sought and the reasons for the application.

(13) For the purposes of an application under the 1991 Act, the interested parties include the owner and occupier of any land which may be entered or on which any work may be done in pursuance of the proposed order or which could be adversely affected in consequence of the proposed work or improvement.

(14) Where an application is made under section 28 but not section 30 of the 1991 Act the Chairman may direct that the application is to be treated as if it had been made under section 30 for the same or substantially the same work.

## PART 7

### Supplemental provisions

#### **Review of directions**

46. The Chairman or the Tribunal may at any time reconsider any direction and may revoke, amend or replace the direction.

#### **Irregularities**

47.—(1) Any irregularity resulting from a failure to comply with any provisions of these Rules or any direction of the Tribunal or of the Chairman before the Tribunal has reached its decision does not of itself render the proceedings invalid.

(2) Where any such irregularity comes to the attention of the Tribunal, the Tribunal or the Chairman as appropriate may give any directions it thinks just, before reaching its decision, to cure or waive the irregularity.

(3) Clerical mistakes in any document recording a direction or decision of the Tribunal or the Chairman, or errors arising in such a document from an accidental slip or omission, may be corrected by the Chairman by certificate in writing.

#### **Proof of documents and decisions**

48.—(1) Any document purporting to be a document signed or issued by the Secretary on behalf of the Tribunal is, unless the contrary is proved, deemed to be a document so executed or issued as the case may be.

(2) A document purporting to be certified by the Secretary to be a true copy of a decision of the Tribunal or of any entry of a decision in the register is, unless the contrary is proved, sufficient evidence of the decision of the Tribunal or the entry and of matters contained in it.

#### **Method of delivering and receipt of documents**

49.—(1) Any document required or authorised by these Rules to be delivered to any person, body or authority is duly delivered to that person, body or authority—

- (a) if it is sent to the proper address of that person, body or authority by post, by special delivery, by recorded delivery or otherwise with proof of posting;
- (b) if it is sent to that person, body or authority at that address by fax or other means of electronic communication which produces a text which is received in legible form; or
- (c) if it is delivered to or left at the proper address of that person, body or authority,

provided that it will only duly be delivered by fax or other means of electronic communication if the recipient consents in writing to the use of that means.

(2) For the purposes of the proviso in paragraph (1), a legal representative is deemed to consent in writing if the reference or address for the means of electronic communication is shown as an acceptable means of delivery on the legal representative's notepaper.

(3) Where a document has been sent in accordance with paragraph (1) it shall, unless the contrary is proved, be taken to have been received by the party to whom it is addressed—

- (a) in the case of a document sent by post, on the day on which the document would be delivered in the ordinary course of post;
- (b) in the case of a document transmitted by fax or other means of electronic communication, on the day on which the document is transmitted; or
- (c) in the case of a notice or document delivered in person, on the day on which the document is delivered.

(4) Any document required or authorised to be delivered may—

- (a) in the case of a company or other body incorporated or registered in the United Kingdom, be delivered to the secretary or clerk of the company or body;
- (b) in the case of a company or other body incorporated outside the United Kingdom, be delivered to the person authorised to accept it;
- (c) in the case of a partnership, be delivered to any partner; or
- (d) in the case of an unincorporated association other than a partnership, be delivered to any member of the governing body of the association.

(5) The proper address of any person, body or authority to whom any document is required or authorised to be delivered is—

- (a) in the case of a secretary or clerk of an incorporated company or other body registered in the United Kingdom, that of the registered or principal office of the company or body;
- (b) in the case of the person authorised to accept it on behalf of a company or other body incorporated outside the United Kingdom, the address of the principal office or place of business of that company or other body in the United Kingdom;
- (c) in the case of the Tribunal or the Secretary, the address of the office of the Tribunal;
- (d) in the case of any other person, the usual or last known address of that person.

(6) Where any document is to be delivered to a diocesan board of finance as having an interest in land, a copy must also be delivered to the Church Commissioners.

### **Substituted delivery of documents**

**50.** If any person to whom any document is required to be delivered for the purposes of these Rules—

- (a) cannot be found or has died and has no known personal representative; or
- (b) is out of the United Kingdom,

or if for any other reason delivery to that person cannot be readily effected, the Chairman may dispense with the delivery to that person or may give a direction for substituted delivery to another person or in any other form (whether by advertisement in a newspaper or otherwise) which the Chairman may think fit and may make such consequential directions as he considers appropriate.

### **Variation of time limits**

**51.—**(1) The Chairman may extend any time limit under these Rules or in any direction whether or not it has already expired, where he considers that it would not be reasonable to expect or have expected compliance with the time limit and he may shorten any time limit where he considers that it would be reasonable to expect compliance within a shorter time limit.

(2) Before deciding whether to extend or shorten the time limit the Chairman must give persons whose interests might be affected an opportunity to be heard or to make objections in writing and responses must be made within five days or such period as the Chairman considers appropriate.

(3) Unless the Chairman otherwise directs, a time limit may be varied once by the written agreement of all parties provided that the Secretary is notified in writing of the agreement before the original time limit expires.

(4) Unless the Chairman otherwise directs, a variation of a time limit under paragraph (3) must end not more than 28 days after the original time limit and end no less than seven days before a hearing.

(5) Any application for an extension or shortening of time must be in writing, stating reasons for the delay and enclosing copies for all other parties.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order sets out the Rules that apply to Agricultural Land Tribunals. It revokes the Agricultural Land Tribunals (Rules) Order 1978 and the Agricultural Land Tribunals (Succession to Agricultural Tenancies) Order 1984.

Article 2 and the Schedule set out the Rules that apply to proceedings before an Agricultural Land Tribunal.

Article 3 makes transitional provision in relation to proceedings which were commenced prior to the commencement of this Order.

Part 2 of the Rules deals with applications and replies, including making an application to the Tribunal (rule 2) and action by a respondent upon receipt of an application (rule 4).

Part 3 of the Rules sets out preliminary procedures, including applications by interested parties to join proceedings (rule 9), case management meetings (rule 12), determination of preliminary issues (rule 13), directions (rules 11, 14 and 15), fixing a hearing (rule 16), consolidation of applications (rule 18) and power to decide an application without a hearing in certain circumstances (rule 19).

Part 4 of the Rules deals with hearings and decisions and includes provision for hearings to be in public (rule 21), the procedures at a hearing (rule 23), evidence of witnesses (rule 24), inspections (rules 25 and 26), expert evidence (rules 27 to 29) and decisions of the Tribunal (rules 30 and 32).

Additional powers of and provisions relating to the Tribunal are provided in Part 5 of the Rules, including power to regulate procedure (rule 33), power to strike out (rule 34) and references to the High Court on questions of law (rules 37 and 38).

Part 6 of the Rules deals with specific applications to the Agricultural Land Tribunal such as those dealing with succession on death or retirement of a tenant of an agricultural holding (rule 40) and drainage cases (rule 45).

Part 7 of the Rules provides supplemental provisions such as delivering and receipt of documents (rule 49) and variation of time limits (rule 51).

A regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Gangmasters, Employment and Tenancies Team, Department for Environment, Food and Rural Affairs, Area 7E, 9 Millbank, Smith Square, London, SW1P 3JR and is annexed to the Explanatory Memorandum which is available alongside the instrument on the Office of Public Sector Information website.

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STATUTORY INSTRUMENTS

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