

SCHEDULE 1

Consequential provisions – primary legislation

PART 2

Provisions consequential upon transfer of functions from agricultural land tribunals for areas in England

Hill Farming Act 1946

188. In the Hill Farming Act 1946(1), in section 21 (avoidance or relaxation of covenants against heather and grass burning in England and Wales)—

- (a) in subsection (1), for “Agricultural Land Tribunal” substitute “appropriate tribunal”;
- (b) after subsection (1) insert—

“(1A) Where the land lies partly in Wales and partly in England, for the purposes of anything required or authorised to be done under this section by or before an appropriate tribunal in relation to that land, the land shall be deemed to be situated entirely in the place where the greater part of the land lies.

(1B) For the purposes of this section, “appropriate tribunal” means—

- (a) in England, the First-tier Tribunal; and
- (b) in Wales, the Agricultural Land Tribunal.”

Agriculture Act 1947

189. The Agriculture Act 1947(2) is amended as follows.

190. In section 73 (establishment, constitution and procedure of agricultural land tribunals)(3)—

- (a) in the heading for “Tribunals” substitute “Tribunal”;
- (b) for subsection (1) substitute—

“(1) For Wales, there shall continue to be an Agricultural Land Tribunal with the duty of hearing and determining references and applications made to the Agricultural Land Tribunal under any enactment.”;

- (c) in subsection (2), for “Agricultural Land Tribunals”, substitute “the Agricultural Land Tribunal”;
- (d) in subsection (3)—
 - (i) for “Agricultural Land Tribunals”, substitute “the Agricultural Land Tribunal”;
 - (ii) in paragraphs (aa) and (b) at both places, for “Tribunals” substitute “Agricultural Land Tribunal”;
 - (iii) after paragraph (c) insert—

“(d) for the transfer of proceedings for the purposes of section 42 of the Agricultural Holdings Act 1986 (procedure where deceased held more than one holding), where the determination of associated applications

(1) 1946 c. 73. Section 21(1) was substituted by paragraph 1 of Schedule 1 to the Agriculture Act 1958 (c. 71).

(2) 1947 c. 48

(3) Section 73 has been amended by paragraph 3 of Schedule 1 to the Agriculture Act 1958 (c. 71) and by paragraphs 29 and 30 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4).

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concerns one or more holdings in Wales and one or more holdings in England.”;

- (e) in subsection (4), for “Agricultural Land Tribunals”, substitute “the Agricultural Land Tribunal”;
- (f) in subsection (5), for “An Agricultural Land Tribunal” substitute “The Agricultural Land Tribunal”.

191. For section 75 (provisions as to land lying partly in one area and partly in another) and the heading to that section substitute—

“Provisions where some land is in Wales and some is in England and transfer of proceedings

75.—(1) Where any land lies partly in Wales and partly in England, for the purposes of anything required or authorised to be done by or before the appropriate tribunal in relation to that land, the land shall be deemed to be situated entirely in the place where the greater part of the land lies.

(2) Tribunal Procedure Rules may make provision for the transfer of proceedings to or from the First-tier Tribunal where, after the making of the application, section 42 of the Agricultural Holdings Act 1986 (procedure where deceased held more than one holding) applies to the determination of associated applications.

(3) For the purposes of subsection (1), “appropriate tribunal” means—

- (a) where the land (or the greater part of the land) is in England, the First-tier Tribunal; and
- (b) where the land (or the greater part of the land) is in Wales, the Agricultural Land Tribunal.”

192. In section 106(7) (criminal offence in support of provisions as to entry and inspection)(4), after “foregoing provisions of this Act” insert “or under section 25 of the Tribunals, Courts and Enforcement Act 2007 (supplementary powers of the Upper Tribunal)”.

193.—(1) Schedule 9 (constitution etc of commission, sub-commission, committees and tribunals)(5) is amended as follows.

(2) in paragraph 13—

- (a) in the heading, for “Tribunals” substitute “Tribunal”;
- (b) in sub-paragraph (1), for “each Agricultural Land Tribunal” substitute “the Agricultural Land Tribunal”.

(3) In paragraph 14(1), for “each Agricultural Land Tribunal” substitute “the Agricultural Land Tribunal”.

(4) In paragraph 15(1), for “each Agricultural Land Tribunal” substitute “the Agricultural Land Tribunal”.

(5) After paragraph 15, insert—

(4) Section 106(7) has been amended by the Pests Act 1954 (c. 68) section 5 and by the Criminal Justice Act 1982 (c. 48) sections 35, 37 and 46.

(5) Paragraphs 13, 14 and 15 of Schedule 9 have been amended by paragraph 5 of Schedule 1 to the Agriculture Act 1958 (c. 71), paragraph 4 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15), paragraph 46 of Schedule 6 to the Judicial Pensions and Retirement Act 1993 (c. 8), paragraph 33 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4) and by paragraph 6 of Schedule 10 to the Courts and Legal Services Act 1990 (c. 41). Paragraphs 22 and 23 of that Schedule have been amended by Part 1 of the Schedule to the Agriculture (Miscellaneous Provisions) Act 1963 (c. 11) and by Schedule 6 to the Agriculture (Miscellaneous Provisions) Act 1972 (c. 62).

“15A.—(1) A member of the First-tier Tribunal may, at the request of the Chairman of the Agricultural Land Tribunal and with the approval of the Senior President of Tribunals, act as a member of the Agricultural Land Tribunal.

(2) Every person while acting under this paragraph may perform the functions of a member of the Agricultural Land Tribunal.”

(6) For paragraph 16(1), substitute—

“(1) Subject to paragraph 15A, for each hearing by the Agricultural Land Tribunal of an application or reference thereto, the members of the Agricultural Land Tribunal shall be—

- (a) the chairman, or a person nominated by the chairman from the panel of deputy-chairmen, and
- (b) one person nominated by the chairman from each of the panels drawn up under paragraph 15.”

(7) In paragraph 16A(1)(6)—

- (a) for “an Agricultural Land Tribunal” substitute “the Agricultural Land Tribunal”;
- (b) omit “for that Tribunal”.

(8) In paragraph 17(1), for “Agricultural Land Tribunals” substitute “the Agricultural Land Tribunal”.

(9) In paragraph 19(2), for “an Agricultural Land Tribunal” substitute “the Agricultural Land Tribunal”.

(10) In paragraph 22(2), for “Agricultural Land Tribunals” substitute “the Agricultural Land Tribunal”.

(11) In paragraph 23(1) and (2), for “Agricultural Land Tribunals” substitute “the Agricultural Land Tribunal”.

Agriculture (Miscellaneous Provisions) Act 1954

194. The Agriculture (Miscellaneous Provisions) Act 1954(7) is amended as follows.

195. In section 5 (power of agricultural land tribunal to award costs)—

- (a) in subsection (1), for “An Agricultural Land Tribunal” substitute “The Agricultural Land Tribunal”;
- (b) in subsection (3), for “an Agricultural Land Tribunal” substitute “the Agricultural Land Tribunal”.

196. In section 6 (power of Agricultural land Tribunal to refer questions of law to High Court)—

- (a) for the heading, substitute “Appeals from Agricultural Land Tribunal”;
- (b) for subsection (1) substitute—

“(1) An appeal on any point of law from a decision of the Agricultural Land Tribunal may be made to the Upper Tribunal.”;
- (c) omit subsections (2) and (4);
- (d) for subsections (5) and (6) substitute—

“(5) Where the Agricultural Land Tribunal is notified of an appeal to the Upper Tribunal under this section from its decision, effect shall not be given to the Tribunal’s decision unless and until the Tribunal otherwise order after the appeal and any appeal arising from

(6) Paragraph 16A was inserted by the Agriculture Act 1958 (c. 71) and amended by paragraph 33 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4).

(7) 1954 c. 39

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that appeal have been concluded (or the right to take or continue such an appeal has lapsed); and in a case relating to a notice to quit, the Tribunal may postpone (or further postpone) the date at which the tenancy is to be terminated by the notice, if it has effect.

(6) The Lord Chancellor may, by order under section 73(3) of the Agriculture Act 1947, make such provision as he thinks necessary or expedient for enabling the chairman of the Agricultural Land Tribunal to exercise all or any of the Tribunal's powers under subsection (5), and for regulating any proceedings before the Tribunal consequent on notification of the appeal or on the decision on such an appeal, and enabling any such proceedings to be dealt with by a Tribunal constituted for that purpose, where they cannot conveniently be dealt with by the Tribunal originally constituted for the purposes of the proceedings."

197. After section 6 insert—

“Stay of First-tier Tribunal decision pending appeal under the Tribunals, Courts and Enforcement Act 2007

6A.—(1) Where, after the First-tier Tribunal has made a decision for the purposes of any of the enactments mentioned in subsection (2), a party seeks permission to appeal, effect shall not be given to the decision unless and until the Tribunal otherwise orders following the conclusion of the appeal; and the Tribunal may, in a case relating to a notice to quit, postpone (or further postpone) the date at which the tenancy is to be terminated by the notice, if it has effect.

(2) The enactments referred to in subsection (1) are—

- (a) this Act;
- (b) the Agriculture Act 1947;
- (c) the Opencast Coal Act 1958⁽⁸⁾;
- (d) the Forestry Act 1967⁽⁹⁾;
- (e) the Land Compensation Act 1973, section 59 or 61⁽¹⁰⁾;
- (f) the Agricultural Holdings Act 1986⁽¹¹⁾ and regulations made under that Act;
- (g) the Agriculture Act 1986⁽¹²⁾;
- (h) the Land Drainage Act 1991⁽¹³⁾;
- (i) the Agricultural Tenancies Act 1995⁽¹⁴⁾;
- (j) schemes under section 2 of the Farm Land and Rural Development Act 1988⁽¹⁵⁾;
- (k) regulations under section 2(2) of the European Communities Act 1972⁽¹⁶⁾ in relation to Set-Aside of agricultural land."

Opencast Coal Act 1958

198. In the Opencast Coal Act 1958, in section 14 (provisions as to agricultural tenancies in England and Wales), in subsection (5), for “Agricultural Land Tribunal’s” substitute “Tribunal’s”.

(8) 1958 c. 69
(9) 1967 c. 10
(10) 1973 c. 26
(11) 1986 c. 5
(12) 1986 c. 49
(13) 1991 c. 59
(14) 1995 c. 8
(15) 1988 c. 16
(16) 1972 c. 68

Forestry Act 1967

199. In the Forestry Act 1967, in section 34 (meaning of “owner” in Part 2)—

- (a) in subsection (2)(b), for “Agricultural Land Tribunal established under Part V of the Agriculture Act 1947” substitute “appropriate tribunal”; and
- (b) after subsection (2) insert—

“(2A) For the purposes of subsection (2), “appropriate tribunal” means—

- (a) where the land (or the greater part of the land) is in England, the First-tier Tribunal; and
- (b) where the land (or the greater part of the land) is in Wales, the Agricultural Land Tribunal established under Part V of the Agriculture Act 1947.”

Land Compensation Act 1973

200. The Land Compensation Act 1973 is amended as follows.

201. In section 59 (notice to quit agricultural holding: right to opt for notice of entry compensation)(17)—

- (a) in subsection (1)(b)(ii), for “Agricultural Land Tribunal” substitute “appropriate tribunal”; and
- (b) after subsection (1) insert—

“(1A) For the purposes of subsection (1), “appropriate tribunal” means—

- (a) where the holding (or the greater part of the holding) is in England, the First-tier Tribunal; and
- (b) where the holding (or the greater part of the holding) is in Wales, the Agricultural Land Tribunal.”

202. In section 61 (notice to quit part of agricultural holding: right to claim notice of entry compensation for remainder of holding), in subsection (1), for “Agricultural Land Tribunal” substitute “appropriate tribunal referred to in subsection (1)(b)(ii) of that section”.

Agricultural Holdings Act 1986

203. The Agricultural Holdings Act 1986 is amended as follows.

204. In section 27 (costs in proceedings for tribunal consents to operation of notice to quit), in subsection (7), for “Tribunal” in both places substitute “Agricultural Land Tribunal”.

205. In section 40 (provisions supplementary to section 39) for subsection (5) substitute—

“(5) Provision shall be made by Tribunal Procedure Rules and by order under section 73(3) of the Agriculture Act 1947 (procedure of Agricultural Land Tribunal) for requiring any person making an application to the Tribunal under section 39 or section 41 to give notice of the application to the landlord of the agricultural holding to which the application relates and to take such steps as the rules or the order may require for bringing the application to the notice of other persons interested in the outcome of the application.”

206. For section 42 substitute—

(17) Section 59 has been amended. Relevant amendments were made by paragraph 3 of Schedule 13 and paragraph 55 of Schedule 14 to the Agricultural Holdings Act 1986 (c. 5).

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“Procedure where deceased held more than one holding

42.—(1) This section has effect where at the expiry of the period of three months beginning with the day after the date of death of a tenant there are pending before the First-tier Tribunal, or the Agricultural Land Tribunal, or both of them, separate applications made under section 39 above by any person or (as the case may be) by each one of a number of persons, in respect of more than one agricultural land holding.

(2) If the applications are pending in both the First-tier Tribunal and the Agricultural Land Tribunal, they (together with any associated application made under section 41 above) shall be heard and determined by—

- (a) the First-tier Tribunal, if the largest holding is in England, and
- (b) the Agricultural Land Tribunal, if the largest holding is in Wales.

(3) The order in which the applications (together with any associated application made under section 41 above) are heard and determined shall, subject to and in accordance with the provisions of any such order as is referred to in section 40(5) above, be such as may be decided—

- (a) where the applications were made by one person, by that person,
- (b) where the applications were made by two or more persons, by agreement between those persons or, in default of agreement—
 - (i) by the First-tier Tribunal (if that tribunal is hearing and determining the applications), or
 - (ii) by the chairman of the Agricultural Land Tribunal (if that tribunal is hearing and determining the applications).

(4) Any decision under subsection (3)(b)(i) or (ii) shall be made according to the respective size of the holdings concerned so that any application in respect of any holding which is larger than any of those holdings shall be heard and determined before any application in respect of that other holding.”

207. In section 53 (application for tenancy of holding by nominated successor), for subsection (11) substitute—

“(11) Provision shall be made by Tribunal Procedure Rules and by order under section 73(3) of the Agriculture Act 1947 (procedure of Agricultural Land Tribunal) for requiring any person making an application to the Tribunal for a direction under this section to give notice of the application to the landlord of the agricultural holding to which the application relates.”

208. In section 67 (compensation for long-term improvements: consent required), at the end of subsection (7) insert “(where the Tribunal is the Agricultural Land Tribunal) or by Tribunal Procedure Rules (where the Tribunal is the First-tier Tribunal or the Upper Tribunal)”.

209. In section 96(1) (interpretation) for the definition of “the Tribunal” substitute—

““the Tribunal” means—

- (a) where the agricultural holding (or the greater part of the holding) is in England, the First-tier Tribunal; and
- (b) where the agricultural holding (or the greater part of the holding) is in Wales, the Agricultural Land Tribunal (see section 73 of the Agriculture Act 1947).”

210. In Schedule 6 (eligibility to apply for new tenancy under Part 4 of this Act), in paragraph 5 omit “the secretary of”.

Agriculture Act 1986

211. In the Agriculture Act 1986, in paragraph 11(3)(c) of Schedule 1 (tenants' compensation for milk quota), for "Agricultural Land Tribunal" substitute "the Tribunal (within the meaning of that Act)".

Land Drainage Act 1991

212. The Land Drainage Act 1991 is amended as follows.

213. In section 28 (orders requiring the cleansing of ditches etc)—

(a) in subsections (1) and (4), for "Agricultural Land Tribunal" substitute "appropriate tribunal";

(b) after subsection (5) insert—

“(6) For the purposes of this section, “appropriate tribunal” means—

(a) where either the land or the ditch is in England, the First-tier Tribunal; and

(b) where either the land or the ditch is in Wales, the Agricultural Land Tribunal.”

214. In section 30 (authorisation of drainage works in connection with a ditch)—

(a) in subsection (1), for "Agricultural Land Tribunal" substitute "appropriate tribunal";

(b) after subsection (4) insert—

“(5) For the purposes of subsection (1), “appropriate tribunal” means—

(a) where the land is in England, the First-tier Tribunal; and

(b) where the land is in Wales, the Agricultural Land Tribunal.”

215. In section 31(18) (composition and incidental powers of Agricultural Land Tribunal)—

(a) in the heading, omit "of Agricultural Land Tribunal";

(b) in subsection (1), for "each", substitute "the";

(c) in subsection (4), for "Agricultural Land Tribunal" substitute "appropriate tribunal (within the meaning of that section)".

Agricultural Tenancies Act 1995

216. In the Agricultural Tenancies Act 1995(19), in section 4 (Agricultural Holdings Act 1986 not to apply in relation to new tenancies except in special cases)—

(a) in subsection (1)(b), omit "of an Agricultural Land Tribunal";

(b) in subsection (2A)(a) for "of an Agricultural Land Tribunal" substitute "under section 39 or 53 of the 1986 Act".

(18) Section 31 has been amended by paragraph 222 of Schedule 4 to the Constitutional Reform Act 2005 (c. 5).

(19) 1995 c. 8. Section 4(2A) was inserted by article 12 of the Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006 (S.I. 2006/2805).