AGRICULTURAL HOLDINGS

The Agricultural Holdings (Scotland) Regulations, 1950

1950 No. 1553 (S. 114)

Made - - - -	18*th September*, 1950
Laid before Parliament	20*th September*, 1950
Coming into Operation	1*st October*, 1950

In exercise of the powers conferred on me by section 69 of the Agriculture (Scotland) Act, 1948(a) and by the following provisions of the Agricultural Holdings (Scotland) Act, 1949(b) namely,

(*a*) subsections (1) and (2) of section 6,

(*b*) subsection (1) of section 27,

(*c*) subsections (1) and (2) of section 28,

(*d*) subsections (3) and (4) of section 71, and

(*e*) subsection (1) of section 72,

and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Short title and commencement

1. These regulations may be cited as the Agricultural Holdings (Scotland) Regulations, 1950, and shall come into operation on the 1st day of October, 1950.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them—

" the Act " means the Agricultural Holdings (Scotland) Act, 1949.

" the Act of 1948 " means the Agriculture (Scotland) Act, 1948.

" area " means an area for which there has been established a Committee.

" Committee " means an Agricultural Executive Committee established under subsection (1) of section 68 of the Act of 1948, and, in relation to any notice, representation or other document referred to in these regulations, means the Agricultural Executive Committee in whose area the land to which such notice, representation or other document relates is comprised, or in terms of these regulations is deemed to be comprised; and " sub-committee " means a sub-committee appointed by a Committee under subsection (2) of the said section.

" holding " means an agricultural holding.

" land " includes a holding, an agricultural unit and agricultural land.

(2) Any reference in these regulations to the Secretary of State in relation to functions which have been delegated by him, under section 69 of the Act of 1948, to a Committee shall be read as a reference to that Committee.

(a) 11 & 12 Geo. 6. c. 45. (b) 12, 13 & 14 Geo. 6. c. 75.

(3) Any reference in these regulations to a Committee in relation to functions which have been delegated by them, under subsection (2) of section 68 of the Act of 1948, to a sub-committee shall be read as a reference to that sub-committee.

(4) Where any land lies partly in one area, as defined in these regulations, and partly in another, such land shall, for the purpose of the exercise by a Committee of the functions delegated to them under these regulations, be deemed to be comprised in the area in which lies the greater part of the land.

(5) The Interpretation Act, 1889(a), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Delegation of functions to Committees

3. Subject to the provisions of these regulations, the functions of the Secretary of State relating to agriculture under the enactments set out in the first column of the First Schedule hereto (other than the function of prescribing anything which in terms of the said enactments is to be prescribed) are hereby delegated to the Committee for the area in which is comprised the land to which the said functions relate:

Provided that

(*a*) the functions hereby delegated shall not include the function of granting or withholding consent to the operation of a notice to quit and relative functions under sections 25 and 26 of the Act in any case where a landlord proposes to terminate a tenancy for any of the purposes specified in paragraph (*b*) of subsection (1) of section 26 of the Act (which refers to the purposes of agricultural research, education, experiment and demonstration, and to the purposes of enactments relating to smallholdings and certain other holdings and allotments) and

(*b*) in any case or in any class of cases where the Secretary of State intimates to a Committee that he has decided himself to exercise in relation to that case or class of cases functions delegated to them under these regulations, such intimation shall be deemed to be a recall of the delegation to the Committee, and of any delegation by the Committee to a sub-committee, of such functions so far as relating to that case or class of cases.

Without prejudice to the generality of the foregoing delegation, the principal functions under the said enactments are as indicated in the second column of the said Schedule.

Restrictions on exercise of delegated functions

4.—(1) The functions under section 71 of the Act (which provides for the requirements to be complied with in affording a person an opportunity of making representations) are delegated to Committees in relation only to cases in which by virtue of these regulations the function of affording the opportunity of making representations is also delegated.

(2) The function under subsection (1) of section 89 of the Act (which provides for authorising any person to enter on and inspect land for certain purposes) is delegated to the extent only that a Committee may so authorise any person added by them to a sub-committee in exercise of powers under paragraph 4 of Part I of the Eighth Schedule to the Act of 1948.

(a) 52 & 53 Vict. c. 63.

Miscellaneous time limits

5.—(1) The period within which the landlord may, pursuant to subsection (1) of section 6 of the Act, require that there shall be determined by arbitration, and paid by the tenant, the amount of any compensation referred to in the said subsection, shall be one month from the date on which there takes effect by virtue of section 4 of the Act the transfer from the tenant to the landlord of liability for the maintenance or repair of any item of fixed equipment.

(2) The period within which the tenant may, pursuant to subsection (2) of section 6 of the Act, require that any claim by him in respect of any previous failure by the landlord to discharge a liability for the maintenance or repair of any item of fixed equipment shall be determined by arbitration, shall be one month from the date on which there takes effect by virtue of section 4 of the Act the transfer from the landlord to the tenant of the said liability for the maintenance or repair of any item of fixed equipment.

Application for consent to notice to quit

6.—(1) Any application for the consent of the Secretary of State under section 25 of the Act to the operation of a notice to quit shall be made by a landlord:

(*a*) in the case of an application before the giving of notice to quit, not less than three months nor more than twelve months before the notice is given ; and

(*b*) in the case of an application after the giving of notice to quit, within one month after service upon the landlord by the tenant of a counter-notice requiring that subsection (1) of the said section shall apply to the notice to quit.

(2) Any such application shall be made by sending or delivering an application in the form set out in the Second Schedule to these regulations or in a form to the like effect:

(*a*) in any such case as is mentioned in paragraph (*a*) of the proviso to regulation 3 hereof, to the Secretary of State, and

(*b*) in any other case, to the Secretary of the Committee.

Right of tenant to require arbitration

7.—(1) Any question arising under subsection (2) of section 25 of the Act shall be determined by arbitration under the Act. Any tenant to whom has been given a notice to quit in connection with which any such question arises may, within one month from the service of the notice to quit, by notice in writing given to the landlord require that such question shall be determined by arbitration as aforesaid.

(2) Where, following on any arbitration so required by the tenant, the award of the arbiter is such that the provisions of subsection (1) of section 25 of the Act would have applied to the notice to quit had counter-notice under that subsection been given within the period thereby limited, that period shall be extended up to the expiration of one month from the issue of the said award.

Suspension of notice to quit

8. Where any such arbitration as is referred to in regulation 7 hereof has been required by the tenant or where, in accordance with the provisions of subsection (4) of section 26 of the Act, an appeal has been made to the

Land Court against the decision of the Secretary of State to withhold or give his consent to the operation of a notice to quit, the operation of the notice to quit shall be suspended until the issue of the arbiter's award or of the decision of the Land Court, as the case may be.

Postponement of notice to quit

9. Where, following upon any such award or decision as is referred to in regulation 8 hereof, the notice to quit would have the effect of terminating the tenancy within six months of the issue of the award or decision, then, on application being made in that behalf, the Secretary of State may at any time within one month from the issue of the award or decision postpone the operation of the notice to quit for a period not exceeding twelve months.

Notice to quit given to sub-tenants

10.—(1) If the tenant of a holding has received from the landlord notice to quit the holding or any part thereof and in consequence of such notice has given to a sub-tenant notice to quit that holding or part, the provisions of subsection (1) of section 25 of the Act shall not apply to the notice given by the tenant to the sub-tenant:

Provided that if under the provisions of section 33 of the Act the tenant has accepted notice to quit part of a holding as notice to quit the entire holding such a notice shall, for the purposes of this regulation, be deemed to be a notice to quit the holding.

(2) Any such notice to quit given to a sub-tenant by a tenant as is mentioned in paragraph (1) of this regulation shall not have effect where the notice to quit given to the tenant by his landlord does not have effect.

Provisions for safeguarding interests of sub-tenants

11. In the case of a holding or part of a holding which is subject to a sub-tenancy the following provisions of this regulation shall apply in any case where the landlord has given or proposes to give a notice to quit:

(1) In any application for the consent of the Secretary of State under section 25 of the Act to the operation of the notice to quit the landlord shall inform the Secretary of State that the holding or part thereof is subject to a sub-tenancy.

(2) Before giving or withholding his consent under section 25 of the Act the Secretary of State shall afford to the sub-tenant the like opportunity of making representations as is provided in the case of the landlord and the tenant by subsection (2) of section 26 of the Act.

(3) Notice of the giving or withholding of consent by the Secretary of State shall be given to the sub-tenant in like manner as such notice is given to the landlord and the tenant.

(4) If, in accordance with the provisions of subsection (4) of the said section 26, an appeal is made to the Land Court against the giving or withholding of consent as aforesaid, the sub-tenant shall be called as a party to the proceedings and shall have the like right to make representations to the Court as is given to the landlord and the tenant.

Certificates of bad husbandry

12.—(1) Any application to the Secretary of State for a certificate under paragraph (*d*) of subsection (2) of section 25 of the Act shall be in writing and shall be made by serving it on the Secretary of the Committee.

(2) The period at the expiration of which the Secretary of State shall, if he has not given or served one or other of such notices as are provided for in subsection (2) of section 28 of the Act, be deemed to have given notice in writing to the landlord and to the tenant that he proposes to refuse the certificate, shall be the period of two months from the making of the said application.

(3) The manner in which a person may require that a proposal of the Secretary of State to grant or to refuse a certificate shall be referred to the Land Court shall be by serving on the Secretary of the Committee a notice in writing setting forth the proposal and the requirement that it be referred as aforesaid.

Making of representations

13.—(1) Where the Secretary of State has given to any person a notice specifying any action proposed to be taken and informing him of his right to make representations that person may, within ten days from the date of the giving of such notice,

(*a*) make representations to the Secretary of State by serving, in manner provided in this regulation, a statement setting forth in detail the matters which he desires the Secretary of State to consider before taking the action in question, and

(*b*) require that an opportunity be afforded to him of being heard by a person appointed by the Secretary of State for the purpose by serving in manner provided in this regulation a requirement to that effect.

(2) Any such statement or requirement shall be in writing and shall be served—

(*a*) in a case where the Secretary of State has himself given the notice, on the Secretary of State, and

(*b*) in a case where a Committee, or sub-committee of a Committee, have given the notice, on the Secretary of the Committee.

Revocation

14.—(1) The Agriculture (Scotland) Regulations, 1948 to 1950(a) (in so far as those regulations have effect for the purposes of Part I of the Act of 1948), are hereby revoked.

(2) Notwithstanding the foregoing revocation,

(*a*) Anything done under those regulations prior to the coming into operation of these regulations shall have full force and effect as if done under the corresponding provisions of these regulations, and

(*b*) where a Committee has, under subsection (2) of section 68 of the Act of 1948, delegated any functions to a sub-committee prior to the coming into operation of these regulations such delegation, until revoked, shall continue to have effect as if it referred to the corresponding functions delegated to the Committee under these regulations.

Dated the 18th day of September, 1950.

Hector McNeil,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

(a) S.I. 1948 (No. 2357) I, p. 101; S.I. 1949 (No. 2425) I, p. 131 ; S.I. 1950 No. 456.

FIRST SCHEDULE

FUNCTIONS UNDER THE AGRICULTURAL HOLDINGS (SCOTLAND) ACT, 1949, DELEGATED BY THE SECRETARY OF STATE TO AGRICULTURAL EXECUTIVE COMMITTEES

Enactments	*Principal Functions*
Section 2 (1)	Approving the letting of agricultural land for a shorter period than from year to year.
Section 9	Varying the terms of a tenancy as to permanent pasture.
Section 12 (3) ..	Determining questions of injury to or deterioration of a holding as a result of the tenant exercising his rights under section 12 (1), and granting certificates in that connection.
Section 25 (1) ..	Consenting to the operation of a notice to quit.
Section 25 (2) (*a*) ..	Consenting to the operation of a notice to quit before the giving thereof.
Section 25 (2) (*d*) ..	Granting a certificate of bad husbandry.
Section 26 (1) ..	Withholding consent (subject to the exercise of discretion) to the operation of a notice to quit unless certain conditions are satisfied.
Section 26 (2) ..	Affording landlord and tenant an opportunity of making representations before giving or withholding consent to the operation of a notice to quit.
Section 26 (3) ..	Giving notice to landlord and tenant of the giving or withholding of consent to the operation of a notice to quit.
Section 26 (5) ..	Imposing conditions when consenting to the operation of a notice to quit.
Section 26 (6) ..	Varying or revoking conditions imposed under section 26 (5).
Section 28 (2) ..	Acting upon applications for certificates of bad husbandry.
Section 28 (4) ..	Affording an opportunity of making representations under section 28 (2) to certain persons in a case where a holding forms part only of an agricultural unit.
Section 29 (1) ..	Giving directions, while a certificate of bad husbandry is in force, to prevent further deterioration of a holding before determination of the tenancy.
Section 29 (2) ..	Ordering early termination of a tenancy where the tenant contravenes or fails to comply with a direction under section 29 (1).
Section 29 (3) ..	Taking steps to secure compliance with a direction under section 29, and recovering the reasonable cost from the tenant.
Section 29 (5) ..	Extending the time for complying with a direction under section 29.
Section 52 (2) ..	Approving, in default of agreement, the carrying out of a new improvement specified in Part II of the First Schedule, or withholding approval.
Section 52 (4) ..	Determining whether a landlord who has given an undertaking under section 52 (3) has failed to carry out within a reasonable time an improvement approved under section 52 (2).
Section 66 (1) ..	Directing, in default of agreement, that a holding or part of a holding shall be treated as a market garden.

Enactments	*Principal Functions*
Section 66 (4) ..	Giving a direction under section 66 (1) subject to conditions for the protection of the landlord.
Section 71	Complying with the requirements involved in affording a person an opportunity of making representations, as set forth in section 71.
Section 72	Referring to the Land Court a proposal to take any action in any case where such reference is duly required, and complying with the subsequent procedure set forth in section 72.
Section 89 (1) ..	Authorising a person to enter on and inspect land for certain purposes.

SECOND SCHEDULE

Regulation 6

AGRICULTURAL HOLDINGS (SCOTLAND) ACT, 1949

Form of application for consent to the operation of a notice to quit

See Note(*a*). To .....

..... :

I, the undersigned .....

of .....

hereby apply under section 25 of the Agricultural Holdings (Scotland) Act, 1949, for consent to the operation of a notice to quit which I $\frac{\text{desire to give}}{\text{have given}}$ to my tenant, namely .....

.....

of ..... on the .....

day of ..... 19 .... to expire on the .....

day of ..... 19 .... in respect of the holding known as .....

.....

See Notes (*b*) and (*c*). This application is made pursuant to a notice in writing served on me by the tenant on the ..... day of ..... 19 .....

(Signed) .....

(Date) .....

Note: (*a*) The application should be addressed to the Secretary of State or to the Secretary of the Committee, as may be appropriate. (See Regulation 6 (2) of the Agricultural Holdings (Scotland) Regulations, 1950.)

(*b*) If the application for consent is made before the giving of the notice to quit, this last sentence should be deleted.

(*c*) A statement of the grounds for giving the notice to quit should be submitted with this application form. Such statement should include reference to any of the paragraphs (*a*) to (*e*) of section 26 (1) of the Agricultural Holdings (Scotland) Act, 1949, which may be appropriate.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Following on the passing of the Agricultural Holdings (Scotland) Act, 1949, these Regulations re-enact (with minor modifications) such of the Agriculture (Scotland) Regulations, 1948 to 1950, as have effect for the purposes of the 1949 Act. The remainder of the Agriculture (Scotland) Regulations, 1948 to 1950, are re-enacted in the Agriculture (Scotland) (No. 2) Regulations, 1950.

The Agriculture (Calculation of Value for Compensation) Amendment Regulations, 1950

1950 No. 2029

Made - - - -	*12th December,* 1950
Laid before Parliament	*15th December,* 1950
Coming into Operation	*1st January,* 1951

In pursuance of subsection (1) of section fifty-one of the Agricultural Holdings Act, 1948(**a**), and of all other powers enabling him in that behalf, the Minister of Agriculture and Fisheries, by and with the advice of the committee appointed under the provisions of section seventy-nine of the said Act, hereby makes the following regulations:—

1.—(1) These regulations may be cited as the Agriculture (Calculation of Value for Compensation) Amendment Regulations, 1950, and shall come into operation on the 1st day of January, 1951.

(2) The Interpretation Act, 1889(**b**), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

2. The Agriculture (Calculation of Value for Compensation) Regulations, 1948(**c**), are hereby amended by the substitution, for Table 1 in the Schedule to the said regulations, of Table 1 in the Schedule to these regulations, by the substitution, for Table 2 in the Schedule to the said regulations, of Table 2 in the Schedule to these regulations, and by the substitution, for Table 3 in the Schedule to the said regulations, of Table 3 in the Schedule to these regulations.

In Witness whereof the Official Seal of the Minister of Agriculture and Fisheries is hereunto affixed this 12th day of December, nineteen hundred and fifty.

(L.S.)

T. Williams,
Minister of Agriculture and Fisheries.

(**a**) 11 & 12 Geo. 6 c. 63. (**b**) 52 & 53 Vict. c. 63. (**c**) S.I. 1948 (No. 185) I, p. 57.