LANDLORD AND TENANT

1960 No. 1337 (S. 69)

The Agricultural Holdings (Specification of Forms) (Scotland) Instrument, 1960

Made - - - - 27*th July*, 1960
Coming into Operation 1*st August*, 1960

The Secretary of State, in exercise of the powers conferred on him by paragraphs 10 and 23 of the Sixth Schedule to the Agricultural Holdings (Scotland) Act, 1949(a), and after consultation with the Council on Tribunals as provided in section 8 of the Tribunals and Inquiries Act, 1958(b), hereby makes the following instrument:—

1.—(1) This instrument may be cited as the Agricultural Holdings (Specification of Forms) (Scotland) Instrument, 1960, and shall come into operation on the 1st day of August, 1960.

(2) In this instrument "the Act" means the Agricultural Holdings (Scotland) Act, 1949, and other expressions have the same meaning as in the Act.

(3) The Interpretation Act, 1889(c), applies to the interpretation of this instrument as it applies to an Act of Parliament.

2. The form specified in the First Schedule to this instrument shall, modified as circumstances may require, be the form of an award in an arbitration under the Act.

3. The forms specified in the Second Schedule to this instrument may be used for proceedings in arbitrations under the Act as follows:—

(*a*) for the making of an application for appointment by the Secretary of State of an arbiter to determine claims, questions or differences (except as to determination of rent) arising between the landlord and tenant of an agricultural holding—Form A;

(*b*) for the making of an application for appointment by the Secretary of State of an arbiter to determine the rent of an agricultural holding—Form B;

(*c*) for the making of an application to the Secretary of State by an arbiter for extension of time for making his award in an arbitration—Form C.

4. The Agricultural Holdings (Scotland) Rules of 1909(d), the Agricultural Holdings (Scotland) Forms of 1912, the Agricultural Holdings (Scotland) Forms of 1926 and the Agricultural Holdings (Scotland) Forms of 1934 are, to the extent to which all or any of them are in operation immediately before the date at which this instrument comes into operation, hereby revoked.

Given under the seal of the Secretary of State for Scotland this twenty-seventh day of July, 1960.

(L.S.) *M. Campbell*,
Secretary.

Department of Agriculture and Fisheries for Scotland,
St. Andrew's House,
Edinburgh, 1.

(a) 12, 13 & 14 Geo. 6. c. 75. (b) 6 & 7 Eliz. 2. c. 66. (c) 52 & 53 Vict. c. 63.
(d) S.R. & O. 1912/581 (Rev. I, p. 115: 1912, p. 262).

FIRST SCHEDULE

FORM OF AWARD

AGRICULTURAL HOLDINGS (SCOTLAND) ACT, 1949

Award in Arbitration between A. B. (name and address), the [outgoing] tenant, and C. D. (name and address), the landlord, with regard to the holding known as (insert name of holding, parish and county), [lately] in the occupation of the said tenant.

Whereas under the Agricultural Holdings (Scotland) Act, 1949, the claims, questions or differences set forth in the Schedule to this Award are referred to arbitration in accordance with the provisions set out in the Sixth Schedule to the said Act:

And whereas by appointment dated the day of 19 , signed by (on behalf of) the said tenant and landlord [or, as the case may be—given under the seal of the Secretary of State], I, (insert name and address), was duly appointed under the said Act to be the arbiter for the purpose of

[1] { settling the said claims / settling the said questions or differences / determining the rent to be paid in respect of the said holding as from[2] }

in accordance with the provisions set out in the Sixth Schedule to the said Act:

[And whereas the time for making my Award has been extended by

[1] { the written agreement of the said tenant and landlord, dated the day of 19 , / order of the Secretary of State, dated the day of 19 , }

to the day of 19 .]

And whereas I, the said (insert name) , having accepted the appointment as arbiter, and having heard the parties (agents for the parties) and examined the documents and other productions lodged and the evidence led and having fully considered the whole matters referred to me, do hereby make my final Award as follows:—[3]

I award and determine that the said landlord shall pay to the said tenant the sum of pounds shillings and pence, as compensation in respect of the claims set forth in the [first part of the] Schedule to this Award, the amount awarded in respect of each claim being as there stated.

I award and determine that the said tenant shall pay to the said landlord the sum of pounds shillings and pence, in respect of the claims set forth in the [second part of the] Schedule to this Award, the amount awarded in respect of each claim being as there stated.

I determine the questions or differences set forth in the [third part of the] Schedule to this Award, as follows, namely:—

I fix and determine the rent to be paid by the said tenant to the said landlord, as from[2] to be the sum of per annum.

I award and direct that each party shall bear his own expenses and one half of the other expenses of and incidental to the arbitration and Award, including my remuneration [and that of the clerk]

(or otherwise as the arbiter may see fit to direct in light of the provisions of section 76(4) of, and paragraphs 16–18 of the Sixth Schedule to, the 1949 Act)

and that, subject to the provisions of the Agricultural Holdings (Scotland) Act, 1949, all sums, including any expenses, payable under or by virtue of this Award shall be so paid not later than[4]

In witness whereof I have signed this Award this day of 19 , in the presence of the following witnesses.

Signature .....
Designation .....
Address ..... (Arbiter)

Signature .....
Designation .....
Address .....

Schedule to the above Award

Claims,[5] questions or differences to be determined.

Part I—

Claims made by the tenant.

Part II—

Claims made by the landlord.

Part III–

Questions or differences (including questions of rent).

In the case of appointment under the seal of the Secretary of State, the arbiter must, if either party so requests, state the reasons for any determination arrived at.

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[1] Adapt to meet the circumstances.

[2] Insert date from which revised rent is to run. (Where variation of rent under section 7 of the 1949 Act is concerned, the date will be the next ensuing day on which the tenancy could have been terminated by notice to quit given at the date of demanding the reference of the rent question to arbitration—usually a term of Whitsunday or Martinmas.)

[3] Such of the following four paragraphs as may be appropriate should be incorporated in the award, adaptations to meet the particular circumstances being made as necessary.

[4] The date of payment specified must not be later than one calendar month after the delivery of the Award.

[5] Where claims are made under the First, Second, Third or Fourth Schedules to the Act, the amounts awarded must, if either party so requires, be shown separately against each numbered item as set out in those Schedules. Where claims are made by either party under agreement or custom and not under statute, the amounts awarded must be separately stated.

SECOND SCHEDULE

FORM A

(Application for appointment by the Secretary of State of an arbiter to determine claims, questions or differences (except as to determination of rent) arising between the landlord and tenant of an agricultural holding).

AGRICULTURAL HOLDINGS (SCOTLAND) ACT, 1949

To the Secretary of State,

In default of agreement between the landlord and the tenant of the holding specified in the Schedule to this application as to the person to act as arbiter and in the absence of any provision in any lease or agreement between them relating to the appointment of an arbiter, I/we hereby apply to the Secretary of State to appoint an arbiter for the purpose of settling the claims, questions or differences set out in the Schedule to this application.

Signature .....
[1].....
Date .....

SCHEDULE

Particulars required	Replies
1. Name and address of holding.	Holding: Parish: County:
2. Name and address of landlord.	
3. Name and address of landlord's agent.[2]	
4. Name and address of tenant.	
5. Name and address of tenant's agent.[2]	
6. If the tenancy has terminated state date of termination.	
7. If an extension of time has been granted under section 68(3) of the Agricultural Holdings (Scotland) Act, 1949 for the settlement of claims, state date on which extension expires.	
8. Approximate acreage of holding.	
9. Description of holding.[3]	
10. Nature of claim to be referred to arbitration. (a) Claims for compensation for improvements by the tenant, and short particulars of any further claims by the tenant. (b) Short particulars of any claims by the landlord.	
11. Questions or differences to be referred to arbitration.	

[1] State whether landlord or tenant. If an agent signs, state on whose behalf he is signing. The appointment will be expedited if the application is made by *both* parties.

[2] If no agent, insert " None " in second column.

[3] Describe holding briefly, e.g., mixed, arable, dairying, market garden.

Copies of this form may be obtained from the Department of Agriculture and Fisheries for Scotland, St. Andrew's House, Edinburgh, 1.

FORM B

(Application for appointment by the Secretary of State of an arbiter to determine the rent of an agricultural holding.)

AGRICULTURAL HOLDINGS (SCOTLAND) ACT, 1949

To the Secretary of State,

In default of agreement between the landlord and the tenant of the holding specified in the Schedule to this application as to the person to act as arbiter and in the absence of any provision in any lease or agreement between them relating to the appointment of an arbiter, I/we hereby apply to the Secretary of State to appoint an arbiter to determine the rent to be paid for the said holding as from[1]

Signature ....
[2].....
Date .....

SCHEDULE

Particulars required	Replies
1. Name and address of holding.	Holding: Parish: County:
2. Name and address of landlord.	
3. Name and address of landlord's agent.[3]	
4. Name and address of tenant.	
5. Name and address of tenant's agent.[3]	
6. Approximate acreage of holding.	
7. Description of holding.[4]	
8. Date of demand in writing for reference to arbitration.	
9. Date at which tenancy of holding could be terminated by notice to quit.	
10. (a) Date of commencement of tenancy. (b) Effective date of any previous increase or reduction of rent. (c) Effective date of any previous direction of an arbiter that the rent continue unchanged.	

[1] Where variation of rent under section 7 of the 1949 Act is concerned, the date will be the next ensuing day on which the tenancy could have been terminated by notice to quit given at the date of demanding the reference of the rent question to arbitration—usually a term of Whitsunday or Martinmas.

[2] State whether landlord or tenant. If an agent signs, state on whose behalf he is signing. The appointment will be expedited if the application is made by *both* parties.

[3] If no agent, insert "None" in second column.

[4] Describe holding briefly, e.g. mixed, arable, dairying, market garden.

Copies of this form may be obtained from the Department of Agriculture and Fisheries for Scotland, St. Andrew's House, Edinburgh, 1.

FORM C

(Application to the Secretary of State by an arbiter for extension of time for making his award in an arbitration.)

AGRICULTURAL HOLDINGS (SCOTLAND) ACT, 1949

To the Secretary of State,

As the time for making the Award in the arbitration detailed below will expire/expired on the day of 19 , I hereby apply for an extension of the time for making the said Award to the day of 19 .

(Signature of arbiter or arbiter's clerk) .....

Date .....

Details to be supplied:—

1. Name of holding and parish and county in which situated.
2. Name and address of landlord (and agent, if any).
3. Name and address of tenant (and agent, if any).
4. Name and address of arbiter (and clerk, if any).
5. (a) Date on which arbiter appointed.
   (b) Whether appointed by agreement of parties or by the Secretary of State.

EXPLANATORY NOTE

(This Note is not part of the instrument but is intended to indicate its general purport.)

The forms specified in this instrument take the place of the forms specified in the Agricultural Holdings (Scotland) Forms of 1934 (AG.100) made by the Department of Agriculture for Scotland on 17th December, 1934, in exercise of the powers vested in them by the Agricultural Holdings (Scotland) Acts, 1923 and 1931.