(6) REGULATIONS

The Agriculture (Scotland) Regulations, 1948

1948 No. 2357 (S. 193)

Made - - - -	*22nd October,* 1948
Laid before Parliament	*26th October,* 1948
Coming into Operation	*1st November,* 1948

In exercise of the powers conferred on me by the following provisions of the Agriculture (Scotland) Act, 1948(a) namely,

(*a*) subsection (1) of section 68,

(*b*) section 69,

(*c*) subsections (3) and (4) of section 80,

(*d*) subsection (8) of section 7,

(*e*) section 5 and paragraphs 2 and 3 of the Second Schedule,

(*f*) subsection (1) of section 71,

(*g*) subsections (1) and (3) of section 15, subsection (3) of section 31 and subsection (4) of section 34, and

(*h*) subsection (2) of section 85,

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

PART I

General

Short title and commencement.

1. These regulations may be cited as the Agriculture (Scotland) Regulations, 1948, and shall come into operation on the 1st day of November, 1948.

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 Agriculture (Scotland) Act, 1948.

" the Act of 1923 " means the Agricultural Holdings (Scotland) Act, 1923(b), as amended by Part II of the Small Landholders and Agricultural Holdings (Scotland) Act, 1931(c) and by the Act.

" area " means an area for which an Agricultural Executive Committee has been established.

" Committee " means an Agricultural Executive Committee established under subsection (1) of section 68 of the Act, 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.

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

(a) 11 & 12 Geo. 6. c. 45. (b) 13 & 14 Geo. 5. c. 10.
(c) 21 & 22 Geo. 5. c. 44.

(2) Any reference in these regulations to the Secretary of State in relation to functions which he has delegated under section 69 of the Act to a Committee shall be read as a reference to that Committee.

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

PART II

Areas for Agricultural Executive Committees

Areas for Committees.

3.—(1) Subject as hereinafter provided each of the areas set out in the First Schedule hereto and numbered respectively 1 to 11 in the first column of the said Schedule shall be an area for which the Secretary of State shall establish a Committee, and shall be known by the title set out in the second column of the said Schedule opposite to the description of the area in the third column thereof.

(2) The areas aforesaid shall comprise the counties, parts of counties, and counties of cities set out in the third column of the said Schedule opposite to the title of each area.

(3) For the purposes of these regulations "county" includes any burgh (other than a county of a city) therein.

Land in more than one area.

4. Where any land lies partly in one of the areas aforesaid 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 comprising the greater part of the land.

PART III

Delegation by the Secretary of State of functions to Agricultural Executive Committees

Delegation of functions to Committees.

5. Subject to the provisions of regulation 4 of these regulations the functions of the Secretary of State relating to agriculture set out in the first column of the Second Schedule hereto, being functions under the corresponding enactments set out in the second column of the said Schedule, are hereby delegated to the Committee for the area in which is comprised the land to which the said functions relate:

Provided that in any case where the Secretary of State intimates to a Committee that he has decided himself to exercise in relation to that case functions delegated to them under these regulations, such intimation shall be deemed to be a recall of the delegation to the Committee of such functions so far as relating to that case.

PART IV

Making of representations to the Secretary of State or to an Agricultural Executive Committee

Representations to Secretary of State or Committee.

6.—(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

(**d**) 52 & 53 Vict. c. 63.

(*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 on the Secretary of the Committee.

PART V

Control of notices to quit

Application for consent to notice to quit.

7.—(1) Any application for the consent of the Secretary of State under section 7 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 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 to the Secretary of the Committee an application in the form set out in the Third Schedule to these regulations or in a form to the like effect.

Right of tenant to require arbitration, etc.

8.—(1) Any tenant to whom has been given a notice to quit in connection with which any question arises under subsection (2) of section 7 of the Act 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 under the Act of 1923.

(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 7 of the Act would have applied to the notice to quit had 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.

9. Where any such arbitration as is referred to in regulation 8 hereof has been required by the tenant or where, in accordance with the provisions of subsection (6) of the said section 7, 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.

10. Where, following upon any such award or decision as is referred to in regulation 9 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 Committee 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.

Notices to quit given to sub-tenants.

11.—(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 7 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 30 of the Act of 1923 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 said tenant by his landlord does not have effect.

Provisions for safeguarding interests of sub-tenants.

12. 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 7 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 7 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 tenant by subsection (4) of the said section 7.

(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 tenant.

(4) If, in accordance with the provisions of subsection (6) of the said section 7, 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 tenant.

PART VI

Certificates of bad husbandry

Applications for certificates.

13. Any application to the Secretary of State for a certificate under paragraph (*a*) of subsection (1) of section 5 of the Act shall be in writing and shall be made by serving it on the Secretary of the Committee.

Deemed refusal of certificate.

14. 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 sub-paragraphs (*a*) and (*b*) of paragraph 3 of the Second Schedule to 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 six weeks from the making of the application under the immediately preceding regulation.

PART VII

References to the Land Court

Time and manner of reference to Land Court.

15.—(1) Subject to the provisions of the Act, the time within which a person may, in terms of the Act, require that a proposal of the Secretary of State to take any action shall be referred to the Land Court, shall be the period of fourteen days from the date on which the Secretary of State gives notice, or is deemed in accordance with the provisions of the Act to have given notice, of the proposal to such person.

(2) The manner in which a person may make such a requirement as aforesaid 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:

Provided that where a requirement is made for a reference to the Land Court before the Secretary of State acquires land under paragraph (*c*) of subsection (1) of section 57 of the Act or under subsection (5) of the said section 57, the requirement shall be served on the Secretary of State.

PART VIII

Miscellaneous time limits

Fixed equipment; landlord's claim.

16. The period within which the landlord may, pursuant to subsection (1) of section 15 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 14 of the Act the transfer from the tenant to the landlord of liability for the maintenance or repair of any item of fixed equipment.

Fixed equipment; tenant's claim.

17. The period within which the tenant may, pursuant to subsection (3) of section 15 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 14 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.

Purchase of land by Secretary of State

18. The period within which the Secretary of State may certify, pursuant to subsection (3) of section 31 of the Act, that a representation requiring the Secretary of State to purchase an interest in land is not justified, shall be three months from the date of the service upon him of the notice in writing containing the said representation.

Dispossession of owner or occupier.

19. The period on the expiration of which the Secretary of State shall be deemed, in terms of subsection (4) of section 34 of the Act, to have given notice of his proposal to refuse a request that he shall exercise his powers under subsection (1) of section 31 or subsection (1) of section 32 of the Act, shall be six weeks from the making of such a request.

Dated this 22nd day of October, 1948.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

3700 D*

Regulation 3.

FIRST SCHEDULE

Areas for Agricultural Executive Committees

(1) Number of Area	(2) Title of Area	(3) Description of Area— Counties and Counties of Cities comprised therein
1	Northern ...	Sutherland, Caithness, Orkney and Zetland.
2	Highland ...	Moray, Nairn, Inverness and Ross & Cromarty.
3	North Eastern	Aberdeen, the County of the City of Aberdeen, Banff and Kincardine.
4	Eastern ...	Angus, the County of the City of Dundee, Fife, Kinross and the Eastern part of the County of Perth comprising the following districts and parishes :—
		Districts — *Parishes*
		Perth ... ... Aberdalgie, Abernethy, Abernyte, Arngask, Auchtergaven, Dron, Dunbarney, Errol, Findo Gask, Forgandenny, Forteviot, Inchture, Kilspindie, Kinclaven, Kinfauns, Kinnaird, Kinnoull, Longforgan, Methven, Moneydie, Perth, Redgorton, Rhynd, St. Madoes, Scone, Tibbermore.
		Blairgowrie ... Alyth, Bendochty, Blairgowrie, Caputh, Cargill, Clunie, Collace, Coupar-Angus, Kinloch, Kirkmichael, Lethendy, Meigle, Rattray, St. Martin.
		Highland ... Blair Atholl, Dull, Dunkeld and Dowally, Fortingall, Kenmore, Little Dunkeld, Logierait, Moulin, Weem.
		Central ... Auchterarder, Dunning.
5	Central ...	Stirling, Clackmannan and the Western part of the County of Perth comprising the following districts and parishes :—
		Districts — *Parishes*
		Western ... Aberfoyle, Ardoch, Balquhidder, Callander, Dunblane and Lecropt, Killin, Kilmadock, Kincardine, Port of Menteith.
		Central ... Blackford, Comrie, Crieff, Fowlis Wester, Glendevon, Logiealmond, Madderty, Monzievaird, Muckhart, Muthill, Trinity Gask.
6	Argyll ...	Argyll.
7	Clyde ...	Renfrew, Lanark, Bute (excluding the Island of Arran), Dunbarton and the County of the City of Glasgow.
8	South Western	Ayr, Wigtown and the Island of Arran.
9	Southern ...	Dumfries and Kirkcudbright.
10	Border ...	Selkirk, Peebles, Roxburgh and Berwick.
11	Lothians ...	Midlothian, the County of the City of Edinburgh, East and West Lothian.

SECOND SCHEDULE

Regulation 5.

Functions delegated by the Secretary of State to Agricultural Executive Committees

Function of the Secretary of State	*Relevant Enactment*
Acting upon applications for certificates of bad husbandry.	Section 5(1)(*a*) of, and the Second Schedule to, the Act.
Giving directions to prevent further deterioration; and in the event of contravention or non-compliance, the termination of tenancies by order earlier than the term specified in a notice to quit.	Section 5(7) of the Act.
Acting upon applications for consent to notices to quit and other functions connected therewith under subsections (1) (3) (4) and (5) of section 7 of the Act with the exception of functions under paragraph (*b*) of subsection (3) of that section.	Section 7(1) (3) (4) and (5) (except (3) (*b*)).
Imposing, varying and revoking conditions where consent to notice to quit is given.	Section 7(7) of the Act.
Considering provisions of a lease as to permanent pasture, and giving directions thereon.	Section 12(1) of the Act.
Acting upon applications for approval of leases for less than from year to year.	Section 17 of the Act.
Serving warning notices.	Section 27(1) of the Act.
Periodical review of warning notices, and withdrawal or continuance of such notices.	Section 27(3) of the Act.
Service of documents in connection with warning notices.	Section 27(4) of the Act.
Approval of transfers of interest in land to which a warning notice relates.	Section 28 of the Act.
Giving directions to secure good estate management and good husbandry.	Section 29(1) of the Act.
Approval of competent manager.	Section 29(2) (*a*) of the Act.
Authorising the carrying out of work required by direction, and entry on land for that purpose and recovery of cost.	Section 29(6) of the Act.
Extending time for complying with directions.	Section 29(9) of the Act.
Giving notice of proposals to give directions to owners for the provision of fixed equipment.	Section 30(1) of the Act.
Considering representations on proposals to give certificates under subsections (1) and (2) of section 31.	Section 31(4) of the Act.
Making orders terminating an occupier's interest in land; requiring him to give up occupation of that land; or requiring the owner to make other arrangements for farming it.	Section 32(1) of the Act.

Function of the Secretary of State	*Relevant Enactment*
Approval of new occupier where old occupier dispossessed.	Section 32(1) of the Act.
Considering representations on, and giving notice (subject to consent of Secretary of State) of, proposal to make an order under section 32(1) of the Act, and particulars of the grounds thereof.	Section 32(2) of the Act.
Considering request for dispossession and giving notice of a proposal to refuse request.	Section 34(1) and (3) of the Act.
Giving directions (subject to consent of Secretary of State) for the stocking of deer forests and grouse moors, and dealing with representations in that behalf.	Section 36(1) (2) and (3) of the Act.
Approval (and withdrawal of approval) of person to be treated as owner of land.	Section 38(2) of the Act.
Reference of proposals to the Land Court.	Section 71(1) of the Act.
Forwarding copies of Land Court Reports to persons who have made representations.	Section 71(2) of the Act.
Serving of notice of action taken following exercise of the right to apply for reference to the Land Court.	Section 71(5) of the Act.
Taking any action necessary or incidental to affording any person an opportunity to make representations, including the appointment of persons to hear and the consideration of such representations.	Section 80 of the Act.
Giving authority to enter and inspect land.	Section 82(1) of the Act.
Designation of agricultural land.	Section 86(1) of the Act.
Giving directions as to agricultural units.	Section 86(2) (*b*) of the Act.
Ordering modification of lease as to area of permanent or temporary pasture.	Paragraph 2 of the Third Schedule to the Act.
Acting upon applications for approval of the carrying out of long-term improvements, and determination whether landlord has failed to carry out within a reasonable time an improvement he has undertaken to execute.	Paragraph 2(*d*) of the Ninth Schedule to the Act.
Acting upon applications to treat a holding as a market garden.	Section 5 of the Agricultural Holdings (Scotland) Act, 1923.
Granting certificates of deterioration of or injury to a holding.	Section 35 of the Agricultural Holdings (Scotland) Act, 1923, as amended by paragraph 16 of the Ninth Schedule to the Act.
Granting certificates as to the employment of persons for whose occupation possession of a dwelling house is required by a landlord.	Paragraph (*g*) of the First Schedule to the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933.

THIRD SCHEDULE

Regulation 7.

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

To the Secretary of the.....Agricultural Executive Committee:

I, the undersigned.....

of.....

hereby apply under section 7 of the Agriculture (Scotland) Act, 1948, 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.....

.....

The grounds upon which the notice to quit $\frac{\text{is to be}}{\text{has been}}$ given are the following:—..... See note (a).

.....

.....

.....

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

(Signed).....

(Date).....

NOTE: (*a*) If possible, reference should be made here to any of the paragraphs (*a*) to (*e*) of section 7(3) of the Agriculture (Scotland) Act, 1948, which may be considered appropriate.

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

EXPLANATORY NOTE

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

The regulations are made under the provisions of the Agriculture (Scotland) Act, 1948 specified in the opening paragraph.

Part II of the regulations prescribes the areas of the Agricultural Executive Committees to be established under the Act. These areas are the same as the areas of the eleven Agricultural Executive Committees which were appointed in 1947 in exercise of powers under the Defence Regulations.

Part III provides, in accordance with section 69 of the Act, for the delegation to Agricultural Executive Committees of the functions specified in the Second Schedule to the regulations, which are derived from the enactments therein specified.

Part IV, in accordance with section 80 of the Act, prescribes the time and the manner in which representations may be made to the Secretary of State before he takes a particular course of action.

Part V contains six regulations dealing with notices to quit. Regulation 7 prescribes the time and manner for the making of applications by landlords for consent, under section 7 of the Act, to the operation of notices to quit. Regulation 8 enables a tenant to submit to arbitration the question whether a notice to quit is one to which section 7(2) of the Act applies, and extends the period within which the tenant may require consent to a notice to quit to be obtained if the award in such an arbitration entitles him so to require. The extended period is one month from the issue of the award. Regulation 9 provides that where there is a reference to arbitration, or an appeal to the Land Court against the decision to give or withhold consent, 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. Regulation 10 gives the Agricultural Executive Committee power to postpone the operation of the notice to quit for a period not exceeding 12 months in any case where the arbiter's award or the Court's decision would have the effect of terminating the tenancy within 6 months. Regulation 11 provides for the case where a sub-tenant has received a notice to quit from a tenant who has himself received a notice to quit. Regulation 12 contains a number of provisions directed generally to safeguarding the interests of sub-tenants.

Part VI of the regulations deals with certificates of bad husbandry provided for under Section 5(1)(*a*) of the Act. The power conferred on the Secretary of State to prescribe the manner in which applications may be made for such certificates (under paragraph 2 of the Second Schedule to the Act) is exercised in regulation 13. Regulation 14 prescribes the period at the expiration of which the Secretary of State, if he has not taken one or other of the courses of action open to him on the application, is deemed to have given notice that he proposes to refuse the certificate.

Part VII of the regulations prescribes the time and manner in which a person may require that a proposal to take any action may be referred to the Land Court.

Section 15 (1) and (3), section 31 (3) and section 34 (4) of the Act give the Secretary of State power to prescribe time-limits within which certain actions are to be carried out. The time-limits are prescribed by Part VIII of the regulations.

3. NORTHERN IRELAND

HILL FARMING

(1) *Cottages.*
(2) *Hill Cattle Schemes*, p. 113.
(3) *Hill Sheep Schemes*, p. 115.

(1) COTTAGES

The Hill Farming (Cottages) (Northern Ireland) Regulations, 1948

1948 No. 1605

Made - - - -	6*th July*, 1948
Laid before Parliament	12*th July*, 1948
Coming into Operation	15*th July*, 1948

The Minister of Agriculture and Fisheries in exercise of the powers conferred upon him by Section 10 of the Hill Farming Act, 1946(a), hereby makes the following Regulations:—

Citation and Application

1. These Regulations may be cited as the Hill Farming (Cottages) (Northern Ireland) Regulations, 1948, and shall apply to Northern Ireland.

Interpretation

2. The Interpretation Act, 1889(b), as applied to Northern Ireland by the Interpretation Act, 1921(c), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Definitions

3. In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

" The Minister " means the Minister of Agriculture and Fisheries.

" Cottage " means a cottage in relation to which an improvement grant or any part thereof has been, or falls to be, made in respect of the cost of work done for the erection, improvement, or reconditioning thereof in accordance with an approved hill farming land improvement scheme.

" Owner " means the person who is for the time being receiving or who, if the cottage were let at a rent, would receive the rent of the cottage, provided that if in any case the person, who by virtue of this definition would be the owner of the cottage, is a person himself liable to pay a rack rent in respect of the cottage, or a rack rent in respect of any property comprising the cottage, to a superior landlord, that superior landlord and not the person aforesaid shall be deemed to be the owner of the cottage for the purposes of these Regulations.

" Tenant " means a worker employed under a contract of service in agriculture or employed under a contract of service in an industry mainly dependent on agriculture to whom a cottage is let on a contract of tenancy, or any person to whom a cottage is so let with the consent of the Minister.

Conditions applicable to a cottage in respect of which an improvement grant is payable

4. Subject to the provisions of these Regulations, where an improvement grant has been made by the Minister in accordance with the provisions of the Hill Farming Act, 1946, in respect of cost of work done for the erection, improvement, or reconditioning of a cottage, the following conditions shall

(a) 9 & 10 Geo. 6. c. 73. (b) 52 & 53 Vict. c. 63.
(c) 12 Geo. 5. c. 4 (N.I.).