STATUTORY INSTRUMENTS

1973 No. 1717

COUNTER-INFLATION

The Counter-Inflation (Agricultural Rents) (No. 2) Order 1973

Made - - -	18*th October* 1973
Laid before Parliament	19*th October* 1973
Coming into Operation	5*th November* 1973

The Minister of Agriculture, Fisheries and Food (in relation to England and Wales) and the Secretary of State for Scotland (in relation to Scotland) in exercise of the powers conferred upon them by sections 11 and 23(2) of, and paragraphs 1 and 3 of Part I of Schedule 3 to, the Counter-Inflation Act 1973(**a**) and of all other powers enabling them in that behalf, hereby make the following order:—

Citation and commencement

1. This order may be cited as the Counter-Inflation (Agricultural Rents) (No. 2) Order 1973 and shall come into operation on 5th November 1973.

Interpretation

2.—(1) The Interpretation Act 1889(**b**) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament, and as if this order and the order hereby revoked were Acts of Parliament.

(2) In this order, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them:—

"Act of 1948" means the Agricultural Holdings Act 1948(**c**);

"Act of 1949" means the Agricultural Holdings (Scotland) Act 1949(**d**);

"Act of 1973" means the Counter-Inflation Act 1973;

"agricultural", "agricultural holding" and "agriculture" have the meaning respectively assigned to each of those expressions, as respects England and Wales, in section 94(1) of the Act of 1948 and, as respects Scotland, in section 93(1) of the Act of 1949;

"agricultural land" has the meaning assigned to that expression, as respects England and Wales, in section 1(2) of the Act of 1948 and, as respects Scotland, in section 1(2) of the Act of 1949;

"contract of tenancy" has the meaning assigned to that expression in section 94(1) of the Act of 1948;

"lease" has the meaning assigned to that expression in section 93(1) of the Act of 1949;

(**a**) 1973 c. 9.
(**b**) 1889 c. 63.
(**c**) 1948 c. 63.
(**d**) 1949 c. 75.

"Order of 1972" means the Counter-Inflation (Agricultural Rents) Order 1972(**a**);

"Order No. 1 of 1973" means the Counter-Inflation (Agricultural Rents) Order 1973(**b**);

"relevant day" means—

(*a*) 5th November 1972, as regards land comprised in a tenancy on that day, and

(*b*) as regards land which was not so comprised, but which was comprised after 5th November 1971 in a tenancy which terminated before 5th November 1972, the day on which such tenancy or, as the case may be, the last of such tenancies, determined.

"rent" means any rent applicable to land comprised in a tenancy to which this order applies and includes any premium in respect of such a tenancy;

"tenancy" means a tenancy to which this order applies.

(3) In this order, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment.

(4) Unless the context otherwise requires, any reference in this order to a numbered article is a reference to the article bearing that number in this order.

Application of this order

3.—(1) Subject as hereinafter provided this order shall apply—

(*a*) in relation to England and Wales to any tenancy under a contract of an agricultural holding, and to any other tenancy of agricultural land of a kind not making the tenant thereunder a tenant as defined in section 94(1) of the Act of 1948;

(*b*) in relation to Scotland to any tenancy under a lease of an agricultural holding, and to any other tenancy of agricultural land of a kind not making the tenant thereunder a tenant as defined in section 93(1) of the Act of 1949;

(2) This order shall not apply to—

(*a*) any agreement for the letting of land made or a lease of land entered into (whether or not the agreement or the lease expressly so provides) in contemplation of the use of the land only for grazing or mowing during some specified period of the year; or

(*b*) any new letting of agricultural land; and for the purposes of this paragraph "new letting" means any letting made or lease entered into after 5th November 1972 comprising agricultural land which was not let during the period commencing with 6th November 1971 and terminating with 5th November 1972.

Restriction of rent increases

4.—(1) Except as provided in paragraphs (2) and (3) of this article no rent payable under a tenancy for any agricultural land—

(**a**) S.I. 1972/1849 (1972 III, p. 5365). (**b**) S.I. 1973/682 (1973 I, p. 2275).

(*a*) being land comprised in a tenancy on 5th November 1972, shall exceed the rent applicable thereto on that date; and

(*b*) being land which was not so comprised, but was comprised at any time after 5th November 1971 in a tenancy which terminated before 5th November 1972, shall exceed the rent applicable to that land immediately prior to the determination of the tenancy which terminated last before 5th November 1972.

(2) Where an agreement (whether pursuant to the terms of a tenancy or otherwise) or a determination, as respects England and Wales, of a reference under section 8 of the Act of 1948 and, as respects Scotland, of a reference under section 7 of the Act of 1949 or an application under section 6 of the Crofters Holdings (Scotland) Act 1886(**a**) or section 5 of the Crofters (Scotland) Act 1955(**b**), provides that the rent payable under a tenancy for agricultural land shall, from the date specified by the agreement or the determination, be greater than the rent previously applicable to that land, being the sum of the rent applicable thereto on the relevant day and any increase of that rent payable before the date so specified on account of an improvement to which paragraph (3) of this article relates, the rent payable under that tenancy for that land shall not exceed the rent previously applicable thereto by more than half the difference between the rent previously applicable thereto and the greater rent agreed or determined as aforesaid.

(3) Nothing in paragraphs (1) or (2) of this article shall preclude the payment or recovery of any increase of rent payable (*a*) as a term or condition of a tenancy on account of any improvement carried out by the landlord at the request of or by agreement with the tenant in respect of the holding comprised in that tenancy, or (*b*) in respect of an agricultural holding comprised in a tenancy on account of any improvement falling within and in accordance with, as respects England and Wales, section 9(1) (*b*), (*c*) and (*d*) of the Act of 1948 and, as respects Scotland, section 8(1) (*b*), (*c*) and (*d*) of the Act of 1949, or (*c*) as an increase of rent, such as is mentioned in the proviso to article 3 of the Order of 1972, payable in respect of a tenancy under that order, or (d) as an increase of rent, such as mentioned in the proviso to article 4 of Order No. 1 of 1973, payable in respect of a tenancy under that order.

(4) For the purpose of this article rent shall be treated as applicable to land comprised in a tenancy on the relevant day notwithstanding that the amount of the rent is determined after that day under the terms of a tenancy subsisting on that day or by arbitration or determination under or pursuant to any enactment.

Recovery of excess rent

5.—(1) Subject to paragraph (3) of this article, where a tenant has paid on account of rent any amount which, by virtue of this order, he is not liable to pay he shall be entitled to recover that amount from the landlord who received it.

(2) Subject to paragraph (3) of this article, any amount which a tenant is entitled to recover under paragraph (1) of this article may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(**a**) 1886 c. 29. (**b**) 1955 c. 21.

(3) No amount which a tenant is entitled to recover under paragraph (1) of this article shall be recoverable at any time after the expiration of two years from the date of payment.

Supplemental

6. For the purposes only, as respects England and Wales, of section 8(3) of the Act of 1948 and the determination of the date mentioned in paragraph (*b*) of that subsection and, as respects Scotland, of section 7(3) of the Act of 1949 and the determination of the date mentioned in paragraph (*b*) of that subsection the foregoing provisions of this order shall be disregarded and any increase of rent which, but for the provisions of this order would have had effect shall be deemed for each of these respective purposes to have had such effect.

Disclosure of information

7. The landlord of agricultural land comprised in a tenancy to which Article 4(1) applies shall, on being so requested in writing by the tenant, supply him with a statement in writing of—

(*a*) the rent applicable to such land on the relevant day, and

(*b*) any increase of the rent payable in respect of such land under the proviso to Article 3, the proviso to Article 4 or the proviso to Article 5 of the Order of 1972, under the proviso to Article 4, the proviso to Article 5 or the proviso to Article 6 of Order No. 1 of 1973, or under Article 4(3).

Revocation

8. The Counter-Inflation (Agricultural Rents) Order 1973 is hereby revoked.

Transitional

9. Without prejudice to paragraph 4 of Part I of Schedule 3 to the Act of 1973, any right acquired or liability or obligation incurred by virtue of, or any penalty incurred for the contravention of, any of the provisions of this order shall not be affected by Part II of that Act ceasing to be in force, and accordingly any investigation, legal proceedings or remedy in respect of any such right, liability, obligation or penalty may be instituted, continued or enforced as though the said Part II had continued in force.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 18th October 1973.

(L.S.)

Joseph Godber,
Minister of Agriculture, Fisheries and Food.

Gordon Campbell,
Secretary of State for Scotland.

18th October 1973.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which applies in England and Wales and Scotland, and is made under the Counter-Inflation Act 1973, makes provision for restricting rent increases in relation to tenancies of agricultural holdings and other tenancies of agricultural land.

The Counter-Inflation (Agricultural Rents) Order 1973, which this Order revokes, prohibited increases of rent (except in respect of certain improvements carried out by the landlord) over the rent applicable before 6th November 1972.

The present Order, which relates to rents payable after 4th November 1973, while preserving the right to increase of rent in respect of landlords' improvements, also permits a limited increase of rent. The Order affects the operation of any term of a tenancy agreement or arbitration or other determination whereby, apart from this Order, a higher rent would be payable from the date specified by the agreement or determination and permits as a maximum increase an amount equal to half the difference between (*a*) the sum of the rent applicable before 6th November 1972 and any increase or increases payable before the specified date in respect of landlords' improvements and (*b*) the higher rent actually agreed or determined.

This Order also requires a landlord, on the written request of a tenant, to furnish in certain cases a statement of the rent applicable to a previous tenancy. The Order provides for the recovery by tenants of excess payments of rent. The Order also contains supplemental and transitional provisions.

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