STATUTORY INSTRUMENTS

# 1973 No. 682

# COUNTER-INFLATION

## The Counter-Inflation (Agricultural Rents) Order 1973

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| *Made* - - - - | *4th April* 1973 |
| *Laid before Parliament* | *6th April* 1973 |
| *Coming into Operation* | *29th April* 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) Order 1973 and shall come into operation on 29th April 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.

(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 ;

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

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

(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.

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(a) 1973 c. 9. (b) 1889 c. 63. (c) 1948 c. 63.
(d) 1949 c. 75. (e) S.I. 1972/1849 (1972 III, p. 5365).

(4) 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 tenancy 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 order " new letting " means any letting made or lease entered into after 6th November 1972 comprising agricultural land which was not let during the period commencing with 5th November 1971 and terminating with 6th November 1972.

*Prevention of rent increases*

**4.** Subject as hereinafter provided, and notwithstanding any agreement (whether pursuant to the terms of a tenancy or otherwise) or any determination in pursuance, 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**), no rent payable under a tenancy for any agricultural land—

(*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 6th November 1972, shall exceed the rent applicable to that land immediately prior to the determination of the tenancy which terminated last before 6th November 1972:

Provided that the foregoing provision shall not apply to any increase of rent payable (*a*) as a term or condition of the 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, permitted in respect of a tenancy under that order.

**5.** Where a tenancy (hereinafter referred to as " the previous tenancy ") terminates on or after 29th April 1973 and the land comprised in the previous

(**a**) 1886 c. 29. (**b**) 1955 (3 & 4 Eliz. 2) c. 21.

tenancy or any part or parts of such land is or are re-let (whether to the previous tenant or not) the rent or, as the case may be, the aggregate of the rents payable in respect of the land comprised in the new tenancy or tenancies shall not exceed the rent which was applicable to such land or such part or parts thereof—

(*a*) under the previous tenancy where that previous tenancy existed on 5th November 1972, on that date,

(*b*) where such previous tenancy did not so exist, but the land or such part or parts thereof comprised therein was or were comprised in a tenancy at any time after 5th November 1971 which terminated before 6th November 1972, immediately prior to the termination of the tenancy which terminated last before 6th November 1972,

together with any increase permitted in respect of the previous tenancy under the proviso to Article 4:

Provided that the foregoing provision shall not apply to any increase of rent payable under the new tenancy or tenancies being an increase such as is mentioned in paragraph (*a*) or (*b*) or (*c*) of the proviso to Article 4.

**6.** Where a tenancy commences on or after 29th April 1973 and the land comprised in the tenancy was at any time after 5th November 1971 comprised in a tenancy which terminated before 6th November 1972 the rent applicable to the land comprised in the tenancy shall not exceed the rent which was applicable to that land immediately prior to the termination of the tenancy which terminated last before 6th November 1972:

Provided that the foregoing provision shall not apply to any increase of rent payable under the tenancy being an increase such as is mentioned in paragraph (*a*) or (*b*) or (*c*) of the proviso to Article 4.

**7.** For the purpose of Articles 4, 5 and 6 rent shall be treated as applicable to a tenancy on 5th November 1972 notwithstanding that the amount of the rent is determined after that date under the terms of an agricultural tenancy subsisting on that date or by arbitration or determination under or pursuant to any enactment.

*Recovery of excess rent*

**8.**—(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.

(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*

**9.** Nothing in this order shall render unlawful any agreement or determination increasing a rent to which this order applies but, subject to the provisions of this order, no increase of any such rent provided or determined by any agreement, arbitration or determination shall have effect during the period of the operation of this order:

Provided that 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*

10. Where a tenancy commences on or after 6th November 1972, being a tenancy to which Article 5 or Article 6 applies, the landlord shall, on being so requested in writing by the tenant, supply him with a statement in writing of the rent which—

(*a*) in relation to a tenancy which terminated on or after 6th November 1972, was applicable to the land comprised in that tenancy on 5th November 1972, together with particulars of any increase (if any) permitted in respect of that tenancy under the proviso to Article 4 of the Order of 1972 or under the proviso to Article 5 of this Order—

(*b*) in relation to a tenancy which terminated before 6th November 1972, was applicable to the land comprised in that tenancy immediately prior to the termination thereof.

*Transitional*

**11.** 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 4th April 1973.

(L.S.)

*Joseph Godber,*
Minister of Agriculture, Fisheries and Food

*Gordon Campbell,*
Secretary of State for Scotland.

4th April 1973.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order which applies to England and Wales and Scotland, and is made under the Counter-Inflation Act 1973, makes provision for preventing rent increases (except on account of certain improvements) during the period when Part II of the Act is in force, in relation to tenancies of agricultural holdings and other tenancies of agricultural land, over the rent applicable before 6th November 1972. The Order continues the postponement provided for by the Counter-Inflation (Agricultural Rents) Order 1972 of the operation of any term of a tenancy agreement or arbitration or other determination increasing rent over the rent applicable before 6th November 1972.

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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