EXPLANATORY DOCUMENT TO

THE PUBLIC BODIES (ABOLITION OF THE COMMITTEE on AGRICULTURAL VALUATION) ORDER 2014

2014 No. [XXXX]

1. This explanatory document has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament under section 11(1) of the Public Bodies Act 2011.

2. Purpose of the instrument

2.1 To abolish the Advisory Committee on Valuation of Improvements and Tenant-Right Matters, otherwise known as the Committee on Agricultural Valuation (CAV) as part of the Government's public body reform programme

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Government is proposing to use the powers in the Public Bodies Act 2011 (Act) to abolish the Committee.

4.2 The CAV was originally established under section 79 of the Agricultural Holdings Act 1948, and upon repeal of that Act continued in existence by virtue of section 92 of the Agricultural Holdings Act 1986 "the 1986 Act")

4.3 The function of the CAV is to advise Ministers about provisions to be included in regulations on the amount of compensation for improvements and tenant-right matters to be paid to tenants at the end of an agricultural tenancy in England and Wales.

4.4 In July 2010, Caroline Spelman, the then Secretary of State for Defra announced proposals to reform a number of public bodies, which included the abolition of the CAV.

4.5 The CAV has not met for over twenty years. Since 2003 advice to Ministers on tenancy matters, including end of tenancy compensation has been provided by the Tenancy Reform Industry Group (TRIG). This is an informal, non-statutory body comprising representatives of the main industry organisations and professional bodies, which meets on an ad hoc basis as

necessary. TRIG has an independent Chair, who is paid a fee by Defra; otherwise Defra does not contribute funding.

4.6 The Order is being made to abolish the Advisory Committee on Valuation of Improvements and Tenant-Right Matters and to repeal its functions under section 92 of the Agricultural Holdings Act 1986.

4.7 The Minister for the Cabinet Office announced the outcome of the Public Bodies Bill Review on 14 October 2010, which included the proposal to abolish the CAV. The Public Bodies Review examined whether a body's functions are needed and, if they are, whether the body should continue to operate at arm's length from Government. This decision was based upon three tests:

- Does it perform a technical function?
- Do its activities require political impartiality?
- Does it need to act independently to establish facts?

4.8 The Department applied these three Cabinet Office tests to determine whether it is right that the CAV functions should continue and if they should be delivered by a public body. Ministers decided that the CAV met one of the tests as it performs a technical function, but that it is not necessary for the CAV to be retained as a standalone public body in order to carry out its functions. Therefore Ministers concluded the CAV should be abolished.

5. Territorial Extent and Application

5. 1 The Order extends to England and Wales except in so far as related repeals have the same extent as the provisions to which they relate.

6. European Convention on Human Rights

6. 1 George Eustice, Parliamentary Under Secretary of State for the Department for Environment, Food and Rural Affairs, has made the following statement regarding Human Rights:

> "In my view the provisions of the Advisory Committee on Valuation of Improvements and Tenant-Right Matters (Abolition) Order 2013 are compatible with the Convention Rights."

7. Policy background

7.1 The Agricultural Holdings Act 1986 provides that tenants are entitled to the payment of compensation by the landlord on the termination of the

tenancy or quitting the holding for improvements carried out on the holding or for tenant-right matters. The sole function of the CAV is to advise Ministers as to the provisions to be included in regulations regarding the amount of compensation under section 66(2) of the 1986 Act. There is no requirement in the legislation for the Minister to be bound by the advice of the Committee when making regulations. However he does have a duty under section 92 to establish a Committee to advise him on such regulations.

7.2 Section 66(2) provides that compensation payable under the Agricultural Holdings Act 1986 for improvements specified in Part I, or tenant-right matters specified in Part II of Schedule 8 to the Act shall be the value to an incoming tenant calculated in accordance with such method, if any, as may be prescribed.

7. 3 Part I of Schedule 8 to the 1986 Act sets out categories of short-term improvements in respect of which tenants are entitled to compensation on quitting an agricultural holding. Improvements in Part I of the Schedule include:

- mole drainage,
- protection of fruit trees against animals,
- application of manure and fertiliser to the land.

Parties are able to take into account any benefits to the tenant for carrying out improvements specified in Part I of Schedule 8 agreed in writing between the tenant and landlord.

7.4 Part II of Schedule 8 deals with tenant-right matters in respect of which a departing tenant has the right to compensation. Tenant-right is the term used to express the right of a tenant to take or receive the benefit of labour and capital extended by the tenant in cleaning, tilling and sowing the land during the tenancy, which would otherwise be lost on termination of the tenancy. The tenant-right matters in Part II of Schedule 8 include:

- crops and produce grown on the holding which the tenant does not have the right to sell or remove,
- seeds sown and cultivated at the expense of the tenant, pasture laid down with clover, grass, Lucerne, sainfoin or other seeds,
- acclimatisation and settlement of hill sheep).

Parties are able to provide an alternative measure of compensation for any matter failing within Part II of Schedule 8 by specifying it in a written tenancy agreement.

7. 5 The regulations currently in force are the Agriculture (Calculation of Value for Compensation) Regulations 1978 ("the 1978 Regulations"). These were last amended in 1983.

7. 6 Under section 92(1) of the 1986 Act the Minister, now the Secretary of State and the Welsh Ministers shall appoint to the Committee of Agricultural Valuation such number of persons with such qualifications as the Minister thinks expedient, including persons with experience in land agency, farming, estate management and the valuation of tenant-right.

7.7 Prior to 1990 we understand that the usual membership of the Committee was a Chairman and 12 members supported by two technical advisers and an administrative secretary. Members were appointed in a personal capacity for their relevant experience. A Committee was appointed for a fixed term, usually three years, and breaks sometimes occurred between the termination of one Committee and the appointment of the next. The last appointments were made to the Twelfth Committee in 1990 and its term formally expired in February 1993.

7. 8 No members have been appointed or Committees formed since 1993 and the last meeting was held in 1991. The Committee is regarded as having "withered on the vine". Advice to Ministers on agricultural tenancy matters is now provided on a non-statutory basis by the Tenancy Reform Industry Group (TRIG) which meets as and when needed. This is chaired by an independent Chair, Julian Sayers (a member of the Royal Institution of Chartered Surveyors (RICS)) and comprises representatives, of the National Farmers Union, Tenant Farmers Association, Country Land and Business Association, Farmers Union of Wales, National Federation of Young Farmers Clubs, Association of Chief Estate Surveyors in Local Government, RICS, Central Association of Agricultural Valuers and Agricultural Law Association.

7.9 The CAV effectively ceased to exist over 20 years ago. Its role has now been taken over by an existing non-statutory organisation, and therefore it is no longer necessary to retain legislative provision for the Committee. Its abolition is a deregulatory measure and will not impact on business or generate any savings. The Public Bodies Act (PBA) 2011 is seen as an appropriate and effective vehicle for abolishing the CAV.

7.10 Welsh Ministers are in agreement that the CAV should be abolished and the consent of the National Assembly is being sought.

8. Compliance with section 8(1) of the Public Bodies Act 2011

8.1 Section 8 of the PBA 2011 states that a Minister may make an order under the PBA 2011 only where it is considered that the order serves the purpose of improving the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers. The Minister considers that this Order serves the purpose of improving the exercise of public functions in section 8(1) of the 2011 Act, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers. Ministers have reviewed the proposed abolition of the CAV and are satisfied that it would serve the purpose of improving the exercise of public functions having regard to:

8.2 **Efficiency -** The proposal to abolish the Committee on Agricultural Valuation is driven by a desire to remove a non-departmental public body which is effectively moribund and whose functions could be carried out by a non-statutory group, the Tenancy Reform Industry Group (TRIG).

8.3 **Effectiveness -** As stated previously the CAV has not existed as a functioning body for more than 20 years. Advice on agricultural tenancy matters is now provided by TRIG.

8.4 **Economy** – There is no budget allocated for the CAV. Its abolition will not result in any savings to the Government but it will help to tidy up the existing public body landscape. CAV does not have any employees, no pension liabilities, nor does it receive any funding or have any assets. The functions of the CAV are now carried out by TRIG, an informal, non-statutory body, which has been meeting on ad hoc basis since 2003. TRIG has not been set up as a consequence of the proposal to abolish the CAV. While the Chairman of TRIG is fee paid, this is not a new cost resulting from abolition of the CAV.

8.5 **Securing appropriate accountability to Ministers-** Abolition of the CAV does not create any issues of accountability given that the body is no longer operational. TRIG will continue to provide advice on tenancy matters, including end of tenancy compensation, but it is a non-statutory body and accountability for legislation on end of tenancy compensation remains with the Minister.

9. Compliance with section 8 (2) of the Public Bodies Act 2011

9.1 The Minister considers that -

a) The Order does not remove any necessary protection

The abolition of the CAV will not alter any of the existing protection given to tenants under the Agricultural Holdings Act 1986 to claim compensation for improvements and tenant-right matters at the end of a tenancy.

b) The Order does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise

The abolition of the CAV will not prevent parties to tenancies under the Agricultural Holdings Act 1986 from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise. Tenants will still be able to claim compensation for improvements and tenant-right matters at the end of a tenancy.

10. Interest in the Houses of Parliament

10.1 There was no significant discussion of the Committee on Agricultural Valuation during the passage of the Public Bodies Act**.**

11. Consultation outcome

11.1 Defra and the Welsh Government published a joint consultation paper on the proposed abolition of the Committee on Agricultural Valuation on 16 September 2013

11.2 The consultation was made available via an online survey and twenty-six stakeholders, including individuals, industry bodies, professional practioners and landowning interests were sent a copy of the consultation document by e-mail and invited to comment on the proposals. The consultation paper was also made available on the Government website at:

https://www.gov.uk/government/consultations/abolition-of-the-committee-on-agricultural-valuation.

The consultation exercise closed on 7 October 2013 by which time a total of five responses had been received.

11.3 The consultation document asked three questions:

- Do you agree with the Government's proposal to abolish the CAV?
- If you do not agree with the proposal, what are your reasons for this?
- Are there any other comments you wish Ministers to consider before they take a final decision?

11.4 Of the five responses received, four were from industry bodies, including TRIG, and one from an individual. All agreed with the proposal to abolish the CAV. However the four industry bodies expressed a view that the abolition of the CAV should be delayed until amendments to the Agriculture (Calculation of Value for Compensation) Regulations 1978 have been implemented.

11.5. A summary of the responses is set out in the table below:

Organisation	**Do you agree with the Government proposal to abolish the CAV?**	**If you do not agree with the abolition of the CAV, what are your reasons for this?**	**Are there any other comments you wish Ministers to consider before they take a decision?**
Tenant Farmers Association	Yes	No response	The abolition of the CAV should follow the enactment of the amended Agriculture (Calculation Value for Compensation) Regulations agreed by the Tenancy Reform Industry Group. These regulations have been with Ministers for some time and need urgent attention to enact them in order to provide the correct framework for end of tenancy compensation matters. The TFA would support the abolition of the CAV without first enacting the amended regulations.
Individual response	Yes	No response	The CAV makes the economy less competitive in the agricultural area
Central Association of Agricultural	Yes	No response	The abolition of the CAV should not take effect until new Regulations are enacted to replace the Agriculture (Calculation of Value for Compensation) Regulations as proposed by the Tenancy Reform Industry Group

NFU	Yes	No response	The NFU would like the Government to look at and consider the amendment put forward last year by the Tenancy Reform Industry Group to the Agriculture (Calculation of Value for Compensation) Regulations.
Chairman of the Tenancy Reform Industry Group (TRIG)	Yes	No response	TRIG supports the abolition of the Committee on Agricultural Valuation providing the Group's proposed amendments to the Agricultural (Calculation of Value for Compensation) Regulations are enacted.

11.6 The response to the joint consultation from the UK Government and the Welsh Government was published on the Government website on 11 December at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264158/cav-consult-gov-response-20131211.pdf

11. 7 The response explained that as part of both Governments' commitment to remove red tape and burdens from businesses, much wider reform of agricultural tenancy legislation was being considered. Amendment of the Agriculture (Calculation of Value for Compensation) Regulations would be considered as part of that overall package. The CAV was effectively a defunct body and the Governments did not wish to delay its abolition until the wider reform of tenancy legislation had been completed. Therefore the UK Government proposed to lay an Order before Parliament to abolish the CAV at an early opportunity. As well as publishing the response on the Government website, George Eustice, the Parliamentary Under Secretary for Defra also wrote to Julian Sayers, Chairman of TRIG, to inform him of the intention to abolish the CAV.

12. Guidance

None.

13. Impact

13.1 The Order has no impact on business, charities or voluntary bodies and does not impose any new costs, administrative burdens or information obligations.

14. Regulating small business

14.1 The legislation does not apply to small business.

15. Monitoring and review

15.1 Defra will continue to monitor the arrangement whereby advice on tenancy matters, including regarding provision for end of tenancy compensation, is provided by TRIG, to ensure it remains fit for purpose.

16. Contact

16.1 Judith Marsden at the Department for Environment, Food and Rural Affairs (Tel: 020 7238 5748 or email: judith.marsden@defra.gsi.gov.uk) can answer any queries regarding the instrument.

16.2 Copies of all responses to the public consultation exercise can be seen at, or obtained from, Judith Marsden Area 3A, Nobel House (Telephone 020-7238-5748, email Judith.marsden@defra.gsi.gov.uk).

16.3 Copies of the responses will also be made available to the Environment, Food and Rural Affairs Select Committee and the Merits of Statutory Instruments Committee of the House of Lords.