STATUTORY INSTRUMENTS

1964 No. 706

LANDLORD AND TENANT

AGRICULTURAL HOLDINGS

The Agriculture (Notices to Remedy and Notices to Quit) Order 1964

Made - - - -	11*th May* 1964
Laid before Parliament	19*th May* 1964
Coming into Operation	1*st July* 1964

I, Reginald Edward, Baron Dilhorne, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 26 of the Agricultural Holdings Act 1948(a), as amended by section 8 of and Schedule 1 to the Agriculture Act 1958(b) and by section 19(2) of the Agriculture (Miscellaneous Provisions) Act 1963(c), do hereby make the following Order :—

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Agriculture (Notices to Remedy and Notices to Quit) Order 1964 and shall come into operation on 1st July 1964.

Amendment of 1959 Order

2. In Article 3 of the Agricultural Land Tribunals and Notices to Quit Order 1959(d) the words from " termination " to the end of the Article shall be omitted, and Articles 6 to 10 of that Order are hereby revoked.

Interpretation

3. In this Order, unless the context otherwise requires :—

" 1948 Act " means the Agricultural Holdings Act 1948, as amended ;

" notice to remedy " means a notice served on the tenant of an agricultural holding for the purposes of paragraph (*d*) of section 24(2) of the 1948 Act requiring him to remedy a breach of a term or condition of his tenancy ;

" notice to do work " means a notice to remedy requiring the doing of any work of repair, maintenance or replacement ;

" termination ", in relation to an arbitration under the 1948 Act, means the date on which the arbitrator's award is delivered to the tenant.

4. The Interpretation Act 1889(e) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

NOTICES TO DO WORK

Notice requiring arbitration

5.—(1) This Article shall have effect for the purpose of determining any question arising under a notice to do work served after this Order comes into operation.

(a) 11 & 12 Geo. 6. c. 63. (b) 6 & 7 Eliz. 2. c. 71. (c) 1963 c. 11.
(d) S.I. 1959/81 (1959 I, p. 91). (e) 52 & 53 Vict. c. 63.

(2) Where the tenant wishes to contest his liability under the terms or conditions of his tenancy to do any of the work specified in the notice, he shall do so by serving on the landlord within one month after the service of the notice to do work a notice in writing specifying the grounds on which and the items in respect of which he denies liability and requiring the question to be determined by arbitration under the 1948 Act.

(3) Where the tenant wishes to contest any question other than or in addition to that mentioned in paragraph (2) above, he shall do so by serving on the landlord within one month after the service of the notice to do work a notice in writing requiring the question to be determined by arbitration under the 1948 Act, so, however, that a tenant who has not required arbitration under this paragraph or paragraph (2) above shall not be precluded from requiring arbitration under Article 9 below in respect of any question other than one as to his liability under the terms or conditions of his tenancy to do any of the work specified in the notice.

(4) Nothing in paragraph (3) above shall preclude a tenant who has required arbitration under this Article and who has been found liable to do work from subsequently requiring arbitration under Article 9 below on the ground that, in consequence of anything happening before the expiration of the time for doing the work as extended by the arbitrator in pursuance of Article 6 below, it would have been unreasonable to require the tenant to do the work within that time.

Extension of time for doing work

6. Where a tenant requires any question to be determined by arbitration under Article 5 above, the time specified for doing the work which is the subject of the arbitration shall be extended until the termination of the arbitration, so, however, that, where the arbitrator finds that the tenant is liable to do any work, he shall extend the time for doing the work by such further period as he thinks fit.

Date of termination of tenancy on failure to do work

7.—(1) Where the time specified for doing any work is extended by virtue of Article 6 above, the arbitrator may, either of his own motion or on the application of the landlord made not later than 14 days after the termination of the arbitration, specify a date for the termination of the tenancy by notice to quit in the event of the tenant's failure to do the work within the extended time, being a date not earlier than whichever of the two following dates is the later, that is to say—

(*a*) the date on which the tenancy could have been terminated by notice to quit served on the expiration of the time originally specified in the notice to do work, or

(*b*) six months after the expiration of the extended time.

(2) Where the landlord applies to the arbitrator under paragraph (1) above, he shall at the same time give written notice of the application to the tenant (except where the application is made at the arbitration) and the tenant shall be entitled to be heard on the application.

(3) A notice to quit on a date specified in accordance with paragraph (1) above shall be served on the tenant within one month after the expiration of the extended time, and shall be valid notwithstanding that it is served less than twelve months before the date on which the tenancy is to be terminated or that that date is not the end of a year of the tenancy.

Recovery of cost of work

8. Where on an arbitration under Article 5 above it appears to the arbitrator that the tenant has done work required by a notice to do work which he was under no obligation to do, the arbitrator shall determine the reasonable cost of such work, which shall be recoverable from the landlord by the tenant in accordance with the provisions of section 71 of the 1948 Act.

NOTICES TO QUIT

Notice requiring arbitration

9. Where it is stated in a notice to quit an agricultural holding or part thereof that the notice is given for one or more of the reasons specified in paragraphs (*b*), (*d*) and (*e*) of section 24(2) of the 1948 Act and the tenant wishes to contest any of the reasons so stated, he shall within one month after the service of the notice serve on the landlord notice in writing requiring the question to be determined by arbitration under the 1948 Act.

Service of counter-notice

10. Where, in consequence of an arbitration under Article 9 above, subsection (1) of section 24 of the 1948 Act applies to a notice to quit, the time within which a counter-notice may be served by the tenant on the landlord under that subsection shall be one month from the termination of the arbitration.

Postponement of operation of notice to quit

11. Where a tenant requires a question arising out of a notice to quit to be determined by arbitration under Article 9 above, the operation of the notice shall be suspended until the termination of the arbitration.

12.—(1) Where a notice to quit has effect in consequence of an arbitration under Article 9 above, or the Agricultural Land Tribunal has consented to the operation of the notice under section 24(1) of the 1948 Act, and the notice would, but for the provisions of this Article, come into operation on or within six months after the termination of the arbitration or the giving of the consent, the arbitrator or the tribunal may, either of his or their own motion or on the application of the tenant made not later than 14 days after the termination of the arbitration or the giving of the consent, postpone the termination of the tenancy for a period not exceeding twelve months.

(2) Where the tenant applies to the arbitrator or the tribunal under paragraph (1) above, he shall at the same time give written notice of the application to the landlord (except where the application is made at the arbitration or at the hearing before the tribunal) and the landlord shall be entitled to be heard on the application.

Extension of time under notice to remedy after notice to quit

13.—(1) Where notice to quit is stated to be given by reason of the tenant's failure to remedy a breach of any term or condition of his tenancy within the time specified in a notice to remedy, or within that time as extended by the landlord or in pursuance of Article 6 above or of this Article, and it appears to the arbitrator on an arbitration under Article 9 above that, notwithstanding that the time originally specified or extended was reasonable, it would, in consequence of anything happening before the expiration of that time, have been unreasonable to require the tenant to remedy the breach within that time, the arbitrator may treat the time as having been extended or further extended and make his award as if the time

had not expired; and where the breach has not been remedied at the date of the award, the arbitrator may extend the time by such period as he considers reasonable, having regard to the length of time which has elapsed since the service of the notice to remedy.

(2) Where the time specified for doing any work is extended under paragraph (1) above, the arbitrator may, either of his own motion or on the application of the landlord made not later than 14 days after the termination of the arbitration, specify a date for the termination of the tenancy by notice to quit in the event of the tenant's failure to do the work within the extended time, being a date not earlier than whichever of the two following dates is the later, that is to say—

(*a*) the date on which the tenancy would have been terminated by the notice to quit which was the subject of the arbitration, or

(*b*) six months after the expiration of the extended time.

(3) Where the landlord applies to the arbitrator under paragraph (2) above, he shall at the same time give written notice of the application to the tenant (except where the application is made at the arbitration) and the tenant shall be entitled to be heard on the application.

(4) A notice to quit on a date specified in accordance with paragraph (2) above shall be served on the tenant within one month after the expiration of the extended time, and shall be valid notwithstanding that it is served less than twelve months before the date on which the tenancy is to be terminated or that that date is not the end of a year of the tenancy.

Notice to sub-tenants

14.—(1) The provisions of section 24(1) of the 1948 Act shall not apply where notice to quit an agricultural holding or part thereof is given to a sub-tenant by a tenant who has himself been given notice to quit that holding or part thereof and the fact that the tenant has been given such notice is stated in the notice given to the sub-tenant.

(2) Any such notice as aforesaid given to a sub-tenant shall have effect only if the notice to quit given to the tenant by the landlord itself has effect.

(3) Where a tenant accepts notice to quit part of a holding as notice to quit the whole under section 32 of the 1948 Act, then, for the purpose of this Article, the notice shall be deemed to be a notice to quit the entire holding.

Dated 11th May 1964.

Dilhorne, C.

EXPLANATORY NOTE

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

This Order provides for the determination by arbitration of certain questions arising out of notices to remedy breaches of terms or conditions of tenancies of agricultural holdings, and replaces the provisions of the Agricultural Land Tribunals and Notices to Quit Order 1959 relating to arbitration on certain questions arising out of notices to quit such holdings.