

SCHEDULES

SCHEDULE 4

Section 13

AGRICULTURAL HOLDINGS ACT 1986: RESOLUTION OF DISPUTES BY THIRD PARTY DETERMINATION

- 1 The Agricultural Holdings Act 1986 is amended as follows.
- 2 In section 2 (restriction on letting agricultural land for less than from year to year), after subsection (4) (determination of disputes arising as to the operation of the section in relation to any agreement to be by arbitration) insert—
- “(5) Notwithstanding subsection (4) above, the parties to the agreement may instead refer for third party determination under this Act the dispute that has arisen as to the operation of this section.”
- 3 (1) Section 6 (right to written tenancy agreement) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where the landlord or tenant has the right under subsection (1) above to refer the terms of the tenancy to arbitration under this Act, the landlord and tenant may instead refer the terms of the tenancy for third party determination under this Act.”
- (3) In subsection (2) (contents of arbitrator’s award)—
- (a) in the opening words, after “arbitrator in his award” insert “or (as the case may be) the third party in his determination”;
- (b) in paragraph (b), after “arbitrator” insert “or third party”.
- (4) In subsection (3) (power of arbitrator to vary rent in consequence of award)—
- (a) after “arbitrator” insert “or third party”;
- (b) after “award” insert “or (as the case may be) his determination”.
- (5) In subsection (4) (effect of arbitrator’s award)—
- (a) after “The award of an arbitrator” insert “or (as the case may be) the determination of a third party”;
- (b) after “the award” (in each place where it occurs) insert “or determination”.
- (6) In subsection (6) (period when determination of the terms of the tenancy is pending), after “award of an arbitrator” insert “or the determination of a third party”.
- 4 In section 7 (model clauses as to the maintenance, repair and insurance of fixed equipment), in subsection (2) (power for regulations to make provision for matters arising under them to be determined by arbitration), after “arbitration” insert “or third party determination”.
- 5 (1) Section 8 (arbitration where terms of written agreement are inconsistent with the model clauses) is amended as follows.
- (2) After subsection (2) insert—

- “(2A) Where the landlord or tenant has the right under subsection (2) above to refer the terms of the tenancy as to the maintenance, repair and insurance of fixed equipment to arbitration under this Act (or would have that right but for subsection (6) below), the landlord and tenant may instead refer those terms for third party determination under this Act.”
- (3) In subsection (3) (arbitrator’s duty to consider terms and power to vary them)—
- (a) after “arbitrator” insert “or third party”;
 - (b) after “arbitration” insert “or (as the case may be) for third party determination”;
 - (c) after “award” insert “or determination”.
- (4) In subsection (4) (power of arbitrator to vary rent in consequence of award)—
- (a) after “arbitrator” insert “or third party”;
 - (b) after “award” insert “or (as the case may be) his determination”.
- (5) In subsection (5) (effect of arbitrator’s award)—
- (a) after “The award of an arbitrator” insert “or (as the case may be) the determination of a third party”;
 - (b) after “the award” (in each place where it occurs) insert “or determination”.
- (6) In subsection (6) (references under section to be made at least 3 years apart)—
- (a) after “a reference” insert “to arbitration or third party determination”;
 - (b) for “further such reference” substitute “subsequent reference to arbitration”;
 - (c) after “award of the arbitrator” insert “or (as the case may be) the determination of the third party”.
- (7) In the sidenote, after “Arbitration” insert “or third party determination”.
- 6 (1) Section 9 (transitional arrangements where liability in respect of fixed equipment transferred) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where the landlord has the right under subsection (1) above to require that there shall be determined by arbitration under this Act and paid by the tenant the amount of any relevant compensation (or would have that right but for the expiry of the prescribed period), the landlord and tenant may instead refer for third party determination under this Act the question of the amount of any relevant compensation that the tenant is to be required to pay.”
- (3) In subsection (2) (definition of “relevant compensation”), for “subsection (1) above” (in the first place where it occurs) substitute “subsections (1) and (1A) above”.
- (4) After subsection (3) insert—
- “(3A) Where the tenant has the right under subsection (3) above to require that there shall be determined by arbitration under this Act a claim of a type described in that subsection (or would have that right but for the expiry of the prescribed period), the tenant and landlord may instead refer the claim for third party determination under this Act.”

- (5) In subsection (4) (provision about disregarding a variation of the terms of a tenancy as to the maintenance, repair or insurance of fixed equipment), after “arbitrator” insert “or third party”.
- 7 In section 10 (tenant’s right to remove fixtures and buildings), after subsection (6) (determination by arbitration of any dispute between a landlord and tenant as to the amount payable by the landlord under subsection (4) on an election to purchase a fixture or building) insert—
- “(6A) Notwithstanding subsection (6) above, the landlord and tenant may instead refer for third party determination under this Act the dispute that has arisen with respect to the amount payable by the landlord under subsection (4).”
- 8 (1) Section 12 (arbitration of rent) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The landlord and tenant may instead refer for third party determination under this Act the question of how much rent is to be payable in respect of the holding as from the next termination date.”
- (3) In subsection (2) (arbitrator’s duty to determine rent properly payable)—
- (a) after “arbitrator” insert “or third party”;
- (b) after “demand for arbitration” insert “or (as the case may be) the reference for third party determination”.
- (4) In subsection (4) (references to the next termination date following the date of a demand for arbitration)—
- (a) after “a demand for arbitration” insert “, or reference for third party determination,”;
- (b) after “the demand” (in each place where it occurs) insert “or reference”.
- (5) In the sidenote, after “Arbitration” insert “or third party determination”.
- 9 In section 13 (increases of rent for landlord’s improvements), after subsection (7) (determination of any dispute between a landlord and tenant under the section to be by arbitration) insert—
- “(7A) Notwithstanding subsection (7) above, the landlord and the tenant may instead refer the dispute for third party determination under this Act.”
- 10 (1) Section 14 (variation of terms of tenancies as to permanent pasture) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Where the landlord or tenant has the right under subsection (2) above to demand that the question described in that subsection shall be referred to arbitration under this Act, the landlord and tenant may instead refer that question for third party determination under this Act.”
- (3) In subsection (3) (power of arbitrator to direct modification of terms as to land which is to be maintained as permanent pasture or is to be treated as arable land and as to cropping)—
- (a) after “subsection (2)” insert “or (2A)”;
- (b) after “arbitrator” insert “or third party”;

- (c) after “award” insert “or (as the case may be) his determination”.
- (4) In subsection (4) (power of arbitrator to order that, on termination of the tenancy, the tenant should leave an area of land as permanent pasture or as temporary pasture sown with certain seeds)—
- (a) after “subsection (2)” insert “or (2A)”;
 (b) after “arbitrator” insert “or third party”.
- 11 (1) Section 15 (disposal of produce and cropping) is amended as follows.
- (2) In subsection (6) (determination by arbitration of question whether tenant exercising subsection (1) rights in manner likely to injure holding etc), after “(including an arbitration” insert “or third party determination”.
- (3) After subsection (6) insert—
- “(6A) Notwithstanding subsection (6) above, the landlord and tenant may agree that, for the purposes of proceedings brought by the landlord under paragraph (a) of subsection (5) above, the question described in subsection (6) is instead to be referred for third party determination under this Act.
- (6B) On a reference under subsection (6A) above, the determination of the third party shall, for the purposes of any proceedings brought under subsection (5) above (including an arbitration or third party determination under paragraph (b)) be conclusive proof of the facts stated in the determination.”
- 12 (1) Section 20 (compensation for damage by game) is amended as follows.
- (2) After subsection (4) (amount of compensation to be determined by arbitration, in default of agreement) insert—
- “(4A) Notwithstanding subsection (4) above, the tenant and landlord may instead refer for third party determination under this Act the question of the amount of compensation to which the tenant is entitled.”
- (3) After subsection (5) (determination by arbitration of questions as to the landlord’s right to be indemnified against claims for compensation by the person in whom the right to kill and take the wild animals or birds that did the damage is vested) insert—
- “(6) Notwithstanding subsection (5) above, the landlord and the other person may instead refer for third party determination under this Act the questions arising between them under that subsection.”
- 13 In section 25 (length of notice to quit), in subsection (3) (effect of determination under section 12 by arbitrator), after “arbitrator” insert “or third party”.
- 14 (1) Section 33 (reduction of rent where notice is given to quit part of holding) is amended as follows.
- (2) After subsection (2) (amount of rent reduction to be determined by arbitration, in default of agreement) insert—
- “(2A) Notwithstanding subsection (2) above, the tenant and landlord may instead refer for third party determination under this Act the question of the amount of any reduction of rent to which the tenant is entitled under this section.”

- (3) In subsection (3) (matters to be taken into account by arbitrator)—
- (a) after “arbitration” insert “or third party determination”;
 - (b) after “arbitrator” insert “or (as the case may be) the third party”.
- 15 In section 47 (terms of new tenancy unless varied by arbitration), in the sidenote, after “arbitration” insert “or third party determination”.
- 16 (1) Section 48 (arbitration on terms of new tenancy) is amended as follows.
- (2) For subsection (3) substitute—
- “(3) Where the provisions of this section apply—
- (a) the landlord or tenant may by notice in writing served on the other within the prescribed period demand a reference to arbitration under this Act of one or both of the questions specified in subsection (4) below, or
 - (b) the landlord and tenant may refer for third party determination under this Act one or both of those questions.”
- (3) In subsection (5) (duties of arbitrator on reference of “question (a)”)—
- (a) in the opening words—
 - (i) after “arbitration” insert “or third party determination”;
 - (ii) after “arbitrator” insert “or (as the case may be) the third party”;
 - (b) in paragraph (b), after “award” insert “or determination”.
- (4) In subsection (6) (power of arbitrator to vary rent where “question (a)” but not “question (b)” referred to arbitration)—
- (a) after “arbitration” insert “or third party determination”;
 - (b) after “arbitrator” insert “or (as the case may be) the third party”;
 - (c) after “award” insert “or determination”.
- (5) In subsection (7) (duties of arbitrator on reference of “question (b)”)—
- (a) after “arbitration” insert “or third party determination”;
 - (b) after “arbitrator” insert “or (as the case may be) the third party”.
- (6) In subsection (10) (power of arbitrator to include further provisions in award), after “award” insert “or (as the case may be) the third party may include in his determination”.
- (7) In subsection (11) (effect of arbitrator’s award made before “the relevant time”)—
- (a) after “award of an arbitrator” insert “or (as the case may be) the determination of a third party”;
 - (b) after “award” (in the second place where it occurs) insert “or determination”.
- (8) In subsection (12) (effect of arbitrator’s award made after “the relevant time”)—
- (a) after “award of an arbitrator” insert “or (as the case may be) the determination of a third party”;
 - (b) after “award” (in the second place where it occurs) insert “or determination”.
- (9) In the sidenote, after “Arbitration” insert “or third party determination”.
- 17 In section 74 (supplementary provisions with respect to compensation: termination of tenancy of part of holding), in subsection (2)(b) (matters to be taken into consideration by arbitrator assessing amount of compensation payable to tenant),

after “arbitrator” insert “or (as the case may be) the third party appointed under section 84A below”.

18 In section 75 (compensation where reversionary estate in holding is severed), in subsection (2)—

- (a) after “arbitrator” (in the first place where it occurs) insert “or (as the case may be) the third party”;
- (b) after “awarded” insert “or determined by third party determination”;
- (c) after “award” insert “or determination”;
- (d) after “arbitrator” (in the second place where it occurs) insert “or third party”.

19 In section 80 (power of Tribunal to direct holding to be treated as market garden), after subsection (7) insert—

“(7A) Notwithstanding the provision made by subsection (7) above for rents to be settled by arbitration, the landlord and tenant may instead refer those rents to be settled by third party determination under this Act.”

20 (1) Section 83 (settlement of claims on termination of tenancy) is amended as follows.

(2) After subsection (1) (determination by arbitration of claims arising under the Act etc on or out of the termination of the tenancy) insert—

“(1A) Notwithstanding subsection (1) above, but subject to the provisions of subsections (2) and (3) below, the tenant and landlord may instead refer for third party determination under this Act any such claim as is mentioned in subsection (1).”

(3) For subsections (4) and (5) (8 month period from the termination of the tenancy within which the landlord and tenant may settle a claim by agreement in writing before it is determined by arbitration) substitute—

“(4) An arbitrator may not be appointed under section 84(2) below to determine a claim which has become enforceable by virtue of the service of a notice under subsection (2) above before the expiry of eight months from the termination of the tenancy.”

21 After section 84 (arbitrations) insert—

“84A Third party determinations

- (1) Parties who wish to refer a matter for third party determination under this Act must jointly appoint a third party to determine the matter.
- (2) Parties may not under subsection (1) jointly appoint a third party to determine a matter once an arbitrator has been appointed to determine the matter under section 84(2).
- (3) Any matter which by or by virtue of this Act or regulations made under this Act may be determined by third party determination under this Act is to be treated as having been referred for third party determination under this Act once an appointment has been made under subsection (1).
- (4) References to “third party determination under this Act” are to the determination of a matter by the third party appointed under subsection (1) or a replacement third party jointly appointed by the parties on a termination

of the earlier appointment and references to a “third party”, in the context of such a determination, are to the third party so appointed.

- (5) If a third party appointed under this section to determine a matter dies, or is incapable of acting, the parties may (instead of appointing a replacement) agree to proceed as if they had not referred the matter for third party determination under this Act.
- (6) A matter that has been referred for third party determination under this Act may not be determined by arbitration under this Act except by virtue of subsection (5).
- (7) Where by virtue of this Act compensation under an agreement is to be substituted for compensation under this Act for improvements or for any such matters as are specified in Part 2 of Schedule 8 to this Act, the third party must award compensation in accordance with the agreement instead of in accordance with this Act.”
- 22 In section 85 (enforcement), in subsection (1) (recovery of unpaid amount by county court proceedings), for “or awarded” substitute “, awarded or determined by third party determination”.
- 23 (1) Section 86 (power of landlord to obtain charge on holding) is amended as follows.
- (2) In subsection (2) (provision for landlord to request arbitrator to certify amount of compensation and term for which charge may properly be made), in the opening words—
- (a) after “arbitration” insert “or third party determination”;
- (b) after “arbitrator” insert “or (as the case may be) the third party”.
- (3) In subsection (3) (landlord acting as trustee etc: ability to obtain order charging the holding with repayment of sums to be paid by the landlord under the Act)—
- (a) for “or awarded” (in the first place where it occurs) substitute “, awarded or determined by third party determination”;
- (b) after “awarded” (in the second place where it occurs) insert “or determined by third party determination”.
- 24 In section 96 (interpretation), in subsection (1), at the relevant place insert—
- ““third party” and “third party determination” have the meaning given by section 84A(4) above;”.
- 25 (1) Schedule 2 (arbitration of rent: provisions supplementary to section 12) is amended as follows.
- (2) In paragraph 1(3) (amount of rent: arbitrator determining current level of rents for comparable lettings)—
- (a) after “arbitrator” insert “or (as the case may be) the third party”;
- (b) after “arbitration” insert “or third party determination”.
- (3) In paragraph 2(1) (amount of rent: duty of arbitrator to disregard increase in rental value due to certain improvements), after “arbitrator” insert “or (as the case may be) the third party”.
- (4) In paragraph 3 (amount of rent: other duties of arbitrator)—
- (a) in the opening words, after “arbitrator” insert “or (as the case may be) the third party”;

Status: This is the original version (as it was originally enacted).

- (b) in paragraph (a), after “arbitration” insert “or third party determination”.
- (5) In paragraph 4 (frequency of arbitrations under section 12), in sub-paragraph (1)(c), after “arbitrator” insert “or third party”.
- (6) In the heading to the Schedule, after “ARBITRATION” insert “OR THIRD PARTY DETERMINATION”.