



Don't fall out over farm tenancies

Fall outs over farming tenancies occur from time to time. Knowledge of the law can prevent such disputes. If you rent agricultural land or property you are likely to have either an Agricultural Holdings Act 1986 (AHA) tenancy or alternatively a Farm Business Tenancy (FBT), derived from the Agricultural Tenancies Act 1995.

Agricultural tenancies agreed before 1 September 1995 are known as Agricultural Holdings Act 1986 Act tenancies, (AHA) or are sometimes referred to as Full Agricultural Tenancies. Generally, tenancies granted under the 1986 Act have lifetime security of tenure.

The main complication caused by this form of tenancy surrounds succession rights. AHA tenancies granted before July 1984 have statutory succession rights on death or retirement, providing that the successor meets the eligibility criteria.

Applications for succession must be placed within three months of the deceased's death and a limit of two tenancies can be granted by succession.

Up until October 2006, the beneficiary had to have earned their livelihood from agricultural work for five out of the previous seven years. Post October 2006, beneficiaries to a tenancy can earn a living from diversified activities on, or off, the farm, providing that the landlord has given consent.

Agricultural tenancies agreed after 1 September 1995 are known as Farm Business Tenancies (FBT). To be a FBT, at least part of the tenanted land must be farmed throughout the life of the tenancy other conditions also apply. FBTs in contrast to AHA tenancies are much more flexible however, they can still create disputes and confusion.

For FBTs, landlords and tenants both have the ability to negotiate rent levels and decide whether or not to have a rent review every three years. They are also able to opt out of the default rent review agreements and can establish their own arrangements, providing that rent reduction is not ruled out. Both parties can also request an independent expert to review the rent.

Tenants are also entitled to compensation for any physical improvements they have made during the FBT, provided that the landlord gave consent to make these adjustments. Compensation can be claimed on long-term major improvements such as constructing buildings, short-term projects such as protecting trees from animals, or intangible advantages such as gaining planning permission or milk quota that will increase the property value, providing that the improvements remain in place after the tenant had vacated.

Legislation alterations brought about by the Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006 means that a cap could be set on the maximum amount of compensation payable. This limit can be set at any time and must be agreed in writing.

The Regulatory Reform Order 2006 also altered the ability of landlords and tenants to agree on the maximum notice period. In the past the maximum notice to quit for a FBT was set at 24 months, and whilst the minimum notice period still remains at 12 months, the maximum can now be whatever the parties involved agree.

If you are thinking about renting out land, it is important to establish your rent review, notice period and compensation limit from the outset. If you are already tied into an agreement, or are trying to get out of one it is crucial you know the terms of your contract. To discuss farm tenancy arrangements further, or if you need advice on an existing agreement please contact me.

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This article is not intended to be a full summary of the law and advice should be sought on all issues.

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