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Department
for Environment
Food & Rural Affairs

Consultation on modernising the repair and maintenance of fixed equipment and end-of-tenancy compensation in relation to agricultural tenancies in England

Summary of responses

December 2014

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Contents

1. Introduction

1.1. Consultation process

1.1.1. As part of the Red Tape Challenge Agriculture theme, secondary legislation covering agricultural tenancies was reviewed to determine if there are ways of fulfilling existing policy aims in a less burdensome way, to simplify the legislative landscape and to update existing legislation.

1.1.2. On 18 August 2014 the Government issued a consultation on modernising the repair and maintenance of fixed equipment and end-of-tenancy compensation in relation to Agricultural Tenancies in England. The consultation paper is available at: https://consult.defra.gov.uk/ahdb-sponsorship-and-agricultural-tenancies/consultation-on-modernising-agricultural-tenancies

1.1.3. The consultation sought views on updating the regulation on the repair and maintenance of fixed equipment by including items now in common use and taking the opportunity to consolidate the new legislation with similar legislation where appropriate. The consultation also sought views on being less prescriptive on how end-of-tenancy compensation is calculated, to enable compensation to reflect the value of the improvement or matter being compensated for at the time the tenancy is terminated.

1.1.4. The consultation ran for eight weeks and closed on 10 October 2014. In total we received 19 responses. 8 of these were received online, and 11 by email and post. We received 1 response from the same organisation online and by post. 1 response online did not provide a name.

1.1.5. A list of respondents to the consultation are listed in Annex A.

1.2. Related activity

1.2.1. It should be noted that we currently have a clause in the Cabinet Office Deregulation Bill which subject to receiving Royal Assent and becoming law, will amend the Agricultural Holdings Act 1986 (“AHA”) to allow third party determination as an alternative to arbitration for certain disputes including those relating to repair and maintenance of fixed equipment and end-of-tenancy compensation.

1.3. Background to agricultural tenancy legislation

1.3.1. In England, around a third of agricultural land is rented. The relationship between landlords and tenants of agricultural tenancies is governed partly by the terms of their individual tenancy agreements and partly by agricultural tenancy legislation.

1.3.2. In England, the main relevant legislative provisions are the AHA and the Agricultural Tenancies Act 1995 (“ATA”). The AHA applies to agricultural tenancies entered into before 1 September 1995 and also applies to certain tenancies granted after that date. The ATA applies to most tenancies of agricultural land beginning on or after 1 September 1995 which are known as farm business tenancies.

1.3.3. The changes to legislation considered in the consultation apply to agricultural tenancy agreements governed by the AHA. The AHA consolidated the Agricultural Holdings Act 1948 and the other legislation relating to agricultural holdings. Secondary legislation providing the detailed framework for the repair and maintenance of fixed equipment and end-of-tenancy compensation were made in 1973 (amended in 1988) and 1978 (amended in 1980, 1981, and 1983) respectively.

2. Model clauses

2.1. Model clauses

2.1.1. Under the AHA, the Minister may make regulations prescribing terms as to the maintenance, repair and insurance of fixed equipment on a tenanted agricultural holding.

2.1.2. The current prescribed terms are contained within the Agriculture (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1973 as amended in 1988 and known as “Model Clauses”. The Model Clauses are deemed to be incorporated in every agricultural tenancy agreement made under the AHA except in instances where there is an agreement in writing, which imposes on one of the parties to the agreement a liability which the Model Clauses would otherwise impose on the other.

2.1.3. The Model Clauses allocate the responsibility between the landlord and tenant of an AHA tenancy for maintaining, repairing, replacing as part of the repairing obligation, and insuring fixed equipment.

2.1.4. The Model Clauses were made in 1973 and amended in 1988. They are considered out of date because they do not prescribe terms as to the maintenance, replacement and repair of fixed equipment which are now in common use, and for technologies developed since the regulations were drafted. There are also a number of existing liabilities where a more detailed breakdown would better define the liability or allow a more pragmatic and reasonable allocation of liabilities between landlord and tenant.

2.1.5. We therefore consulted on changes to the Model Clauses that:

i. add new liabilities; and
ii. provide a more detailed breakdown of liabilities.

Responses

Model clauses – new liabilities

a. Reed beds - landlord to repair/replace, tenant to keep clear and in good working order.

2.1.6. The comments mainly focussed on the terminology used, seeking clarification of what constitutes ‘good working order’ or ‘repair’. It was also suggested that

the words “where reasonable” should be included before “landlord to repair and replace”. Comments suggested that the liability for reed beds should only apply to those in use as waste water or sewage systems and should not apply to the repair and replacement of reed beds that grow naturally in wetland environments. We only received one response questioning the split of liabilities, which stated that the landlord should only be responsible for anything below ground of the reed bed.

b. Slurry, silage and effluent systems – landlord to repair and replace, tenant to keep clean and in good working order.

2.1.7. The comments focussed on the tenant being liable for repair as they are responsible for the day to day running of the farm and questioned liability resting with the landlord at all if the farm does not require one of these systems. While others suggested that it may not be possible for the tenant to keep these systems in good working order. Some comments suggested that anaerobic digesters shouldn’t fall under this liability but rather under an energy production system. Also there were comments around the terminology used, seeking clarification of ‘good working order’ and asked for greater description.

c. Fixed equipment generating electricity/heat/power e.g solar panels, heat pumps and wind turbines – landlord to replace, tenant to repair.

2.1.8. We received mixed comments in support and against the split of liabilities. Some suggested the landlord should also be liable for keeping these in good working order, while others suggested the tenant should be responsible for maintenance. Some comments went into the detail of splitting liabilities of the component parts. We also received a comment that in some circumstances the landlord may earn an income from these systems, so they should be fully liable and a suggestion that anaerobic digesters should fall under this category.

d. Fuel, oil tanks, gas pipework and fixed liquid petroleum and gas tanks – landlord to replace, tenant to repair.

2.1.9. The comments focussed on the liability for the different types of fuel storage. Some suggested that the landlord should be liable for repair and replacement of gas pipework and fixed LPG tanks, particularly as landlords may have liability for gas checks. Another comment suggested the tenant should be liable for above ground storage tanks while the landlord should be liable for other fuel tanks that are an integral part of a property. Also comments stated the liability should include other associated items.

e. Fire, carbon monoxide, smoke and similar detection systems – landlord to repair and replace on the basis they must fulfil their obligations under the fire insurance. Given the health and safety aspect of this liability, provision will be made for the tenant to repair and replace, with the ability to recover reasonable costs.

2.1.10. We received support for the proposal but also a number of comments that suggested we move the liability of repair or keep in good working order from the landlord to the tenant, as the tenant is the person in the best position to repair these items. There was also a suggestion that tenants may be employers and required to have these systems. There was a suggestion that the landlord's liabilities should not extend beyond the dwelling. We also received representations stating that if the tenant is recovering costs, they should notify the landlord in advance. Also it was stated that there is no legal obligation on the landlord to install these detection systems.

f. Radon pumps – landlord to replace, tenant to repair.

2.1.11. We did not receive many responses on this liability. Only one comment suggested the liability for repair should sit with the landlord. Other comments agreed with the liability but commented that the landlord should only replace if the radon pump is vital. Another stated that radon pumps should be classified as a detection system.

g. Insulation including roof, wall and pipes – landlord to replace, tenant to repair.

2.1.12. We received mixed comments in support and against the split of liabilities for each type of insulation. We received comments stating that the landlord should have liability for repair and replacement of cavity and other wall insulation as they are integral to the structure of the building. However we also received a number of responses in support of the tenant having more responsibilities. There was a suggestion that the tenant should be liable to replace these items to make use of energy efficiency measures. There was also a suggestion that landlords should only be responsible of roof insulation of the dwellings. Other comments suggested the tenant should be liable for pipe insulation and wall insulation should only be replaced by the landlord if it is necessary.

h. Livestock handling systems and sheep dips – landlord to replace, tenant to repair.

2.1.13. We did not receive many responses on this proposal. Some respondents commented that these systems are normally installed by the tenant. Another comment suggested that the landlord should only be liable if these are substantial robust fixtures that are required for the farming of the holding as specified in the tenancy agreement. Others were in agreement with the proposal.

i. Flood banks – landlord to repair and replace.

2.1.14. We did not receive many comments for this liability. Some were in agreement of the proposal, while there was also a suggestion that the tenant should have some responsibility for maintaining or repairing flood banks ie responsibility for preventing damage and degradation. It was suggested that if the flood bank is eroded and the land was prone to flooding, this would be reflected in the rental value of the land.

j. Tile and pipe for field drainage system – landlord to repair and replace, tenant to keep field drains and their outlets clear from obstruction.

2.1.15. We received support for the split of liabilities as consulted, but we also received comments against. These suggested the tenant should be liable for repair, as most repairs would be localised and it would be unreasonable for the landlord to carry them out. Other comments suggested the split of liabilities would put a large liability on the landlord, particularly if old redundant systems are required to be replaced as a result of this liability . Other comments questioned the terminology used, including a suggestion that the words "where reasonable" should be included before "landlord to repair and replace" and specifying that tenant's maintain outlets clear from obstruction is included.

k. Signs and notices – tenant to repair and replace.

2.1.16. We received a comment from one consultee about this liability, who agreed that the tenant should be responsible for repairing and replacing.

Model clauses – more detail or changes in existing liabilities

l. Main walls and exterior walls expanded to include structural frames, cladding and internal plaster - landlord to repair and replace.

2.1.17. We received support for the proposal, but also some comments against. We received a number of comments stating that internal plaster should not be for the landlord to repair and in some instances replace. However a number of these comments also suggested that if the damage to internal plaster was caused by a structural defect to the building the landlord should be liable. We also received a comment suggesting that the liability for internal plaster should only apply to dwellings. We received other comments agreeing that structural frames and cladding should be the landlord's liability, another response suggested cladding should fall to the tenant unless caused by structural defect to the building. One comment suggested "main" serves no purpose in the liability.

m. The landlord is currently responsible for chimney stacks and pots – we propose to expand this to include chimney linings, fireplaces, firebacks and firebricks which would be for the landlord to repair and replace.

2.1.18. We received some support for the proposal, but there was also concern from consultees with attributing liability to the landlord for fireplaces, firebricks and firebacks, while some also questioned chimney linings. They suggested that the condition of these items is dependent on the appropriate use of the items by the tenant. However some consultees stated that the landlord should remain liable for the chimney lining. There was also a suggestion that the tenant should sweep the chimney and the landlord should carry out annual inspection of the flue.

n. We propose to expand roofs to include bargeboards, fascias and soffits with the landlord to execute all repairs and replacements. In respect of this work, we propose the landlord may recover one-half of the reasonable costs from the tenant with the caveat that if the work is completed before the fifth year of the tenancy, the sum which the landlord may recover from the tenant is restricted to one-tenth of such reasonable costs for each year that has elapsed between the start of the tenancy agreement and the work being completed.

2.1.19. We received comments supporting the proposal, however there was a concern that these items are being defined under “roofs” and that the landlord should only recover reasonable costs for bargeboards, fascias and soffits. Some consultees wanted the caveat in the liability removed. However there was a suggestion that the landlord should not be liable as damage to these items is normally a result of not maintaining a painting schedule. We also received a suggestion that the term “roof” required more clarity, with reference to the roof structure as well as the roof material.

o. Door and window furniture including glass, glass substitute, sashcords, sealed glazing units– tenant to repair as currently but now to also replace when such items become incapable of repair. This moves liability for replacing door and window furniture which is incapable of repair from the landlord to the tenant.

2.1.20. We received a limited number of responses on this liability. Some comments were in support of the proposal, others questioned whether the tenant should be responsible for the replacement of glass in windows and doors. There was a suggestion that the tenant should recover half the cost if they are replacing. Also there was a question about liability if the glazing is replaced as a result of replacing the window frame.

p. Electrical supply system including consumer boards except for switches, sockets and light fittings– landlord to maintain/repair/replace. This changes the repairing liability so that the landlord is solely responsible for the electric supply system except for items which fall more easily to the tenant to repair or replace due to ease of access namely switches, sockets and light fittings. This links to the change proposed at paragraph "q" below.

2.1.21. See paragraph 2.1.22

q. Electrical switches, sockets and light fittings – tenant to maintain/repair and to replace when item becomes incapable of repair. The tenant is currently responsible for repairing the electrical system. Under our proposal their repairing obligation will be limited to sockets, switches and light fittings and they will be responsible for replacing these items if incapable of repair.

2.1.22. We received support for both proposals regarding electrical supply systems (p) and electrical fittings (q), however we also received a number of comments. A number of consultees stated that the tenant should have some form of liability for the electrical supply system, as the performance of the system would depend on the tenant's electrical fittings. Also the tenant may want the system updated to support additional electrical equipment. Therefore there was a suggestion that the landlord should recover half the cost of any changes to the system. There was a suggestion that the landlord should only be responsible for a complete rewiring, the electrics up to the consumer board or the under surface wiring in the dwellings.

2.1.23. We also received comments on electrical testing, the liability of electrical systems in outbuildings and the terminology of switches. There was a suggestion that switches also appear on the consumer board.

2.1.24. We also received comments suggesting items p and q should fall under one liability with the landlord responsible.

2.1.25. There was also a suggestion that a transitional period should be put in place for this liability. During this period the landlord and tenant would share the cost of an electrical inspection, this would enable the landlord to fully understand the extent of the liabilities they are taking on.

2.1.26. Also there was a comment that if the landlord fails to make repairs to an electrical system, it may be unlawful for the tenant to replace or repair the fittings.

r. Fitted kitchens we believe are already provided for in law under the tenant's obligation "*to repair and keep and leave clean and in good tenantable repair, order and condition the farmhouse, cottages and farm building together with all fixtures and fittings*... " and landlord's obligation to replace. Our preference is not to include this item but would you find it helpful to have it covered explicitly in the Model Clauses?

2.1.27. We received a number of mixed responses for and against explicitly covering fitted kitchens in the Model Clauses. There were also suggestions that fitted kitchens should be widened to include other fitted furniture and fitted bathrooms. Also some stated that fitted kitchens are mainly installed by the tenant.

s. We propose adding garden/yard gates and doors to the list of liabilities and propose that the liability to repair sits with the tenant and to replace with the landlord. In respect of this work, the landlord may recover one-half of the reasonable costs from the tenant with the caveat that if the work is completed before the fifth year of the tenancy, the sum which the landlord may recover from the tenant is restricted to one-tenth of such reasonable costs for each year that has elapsed between the start of the tenancy agreement and the work being completed.

2.1.28. We received some comments stating that the caveat should be removed, while others suggested the cost recovery mechanism should be removed entirely. Other comments included expanding the liability to include all fencing, while others suggested gates and doors are already covered in the Clauses and introducing a subset for the garden/yard may lead to disputes.

t. We propose boilers, ranges and grates are expanded to include central heating systems, immersion heaters, heating apparatus and ranges – landlord to replace, tenant to repair.

2.1.29. We received support for the proposal however we also received a number of comments. There was a suggestion that the landlord should only be responsible for replacing the central heating system when it has become inoperative, rather than when an upgrade is thought to be needed. It was stated that making the landlord liable for replacing may lead to arguments over when the boiler needs replacing, therefore the liability should sit with the tenant.

2.1.30. We also received general comments on the responsibility for testing the systems and the terminology used. There was a suggestion that the term "central" should be omitted and more generic wording should be used,

avoiding naming component parts of a heating system. We also received a suggestion that immersion heaters should fall under switches and sockets, with the tenant liable for replacing them.

u - Underground water pipes - provision will be made for the tenant to carry out the necessary work without providing the landlord with prior notice with the ability to recover reasonable costs up to a cap of £2,000 per incident. This is without prejudice to the existing provision that the tenant can serve written notice to the landlord calling on him to do this work and if the landlord has not done the work in a week, then the tenant can do the work and recover the reasonable cost in full.

2.1.31. We received comments suggesting that the ability of the tenant to carry out the work without prior notice should only apply to emergency work. While others stated that prior notice should be given at all times. We also received responses suggesting the monetary cap of £2000 per incident was too high and if the tenant damaged the pipe they should be liable. However we received responses in favour of the proposals.

Model clauses – general comments

2.1.32. We received a number of general comments about the Model Clauses.

2.1.33. There were comments on the drafting of the legislation and that a table format would improve the ease of reading. They suggested that a table would help to clearly identify divisions of liability. An example table was attached to one of the consultation responses for reference. Also it was suggested that the new regulation should make it clear that the Model Clauses do not apply to the fixed equipment of the tenant.

2.1.34. We received comments suggesting the Model Clauses favoured tenants rather than small landowners. They commented that some tenants currently receive a favourable rent and changing the liabilities may prompt landlords to recover more.

2.1.35. It was also stated that the Defective Premises Act 1972 should be borne in mind when drafting the new clauses.

2.1.36. There was a suggestion that the Model Clauses should make the landlord responsible for the necessary testing of electricity systems, gas, oil, solid fuel and asbestos. This would be subject to the recovery of half the costs from the tenant.

2.1.37. Representations were also received in respect of liabilities that were not consulted on. For example liability for painting and decoration, septic tanks, water systems and fixed equipment for communications.

2.2. Model clauses – monetary caps

2.2.1. Monetary caps within the Model Clauses have not been updated since 1988 and no longer reflect the costs of the liabilities concerned. Those caps are:

- The tenant is required to renew all broken or cracked roof tiles or slates and to replace all slipped tiles or slates when damaged to a limit of £100 in any one year of the tenancy. This limit has not increased in line with inflation.
- Currently if the landlord fails to execute a replacement which is his liability within three months of receiving written notice of the necessary replacement from the tenant, the tenant may carry out the replacement and recover reasonable costs. The tenant's recovery of those replacement costs is limited to a sum equal to the rent for a year or £2000, whichever is the smaller in respect of the total costs of all the replacements carried out. The tenant can recover that amount during each year of the tenancy until the cost of the works is recovered in full. This is in contrast to repairs for which the tenant is able to recover reasonable costs with no annual cap.

2.2.2. We consulted on changes to the Model Clauses that:

iii. increase or remove monetary caps.

Responses

Model clauses – increase or remove monetary caps

Are you content with the proposed increase from £100 to £500 for the tenant to recover costs for the renewal of broken and cracked tiles or replace slipped tiles on roofs?

2.2.3. Fourteen consultees agreed with the proposal, while five were against.

2.2.4. Some consultees commented that the increase should be to £1000, while another suggested it should be limited to £300. There was also a suggestion that the monetary amount should be reviewed on a regular basis, which could include linking it to inflation. Others commented that the tenants often complete this work themselves and therefore it is hard to define the true value.

2.2.5. It was also stated that tenants should not be completing the work due to health and safety rules and suggested that the liability transfers to the landlord, subject to them recovering £500 per annum from the tenant for the repairs.

Are you content with permitting tenants to recover their reasonable cost for replacements in a single payment, rather than the tenant having to recover up to a cap for each year of the tenancy until reasonable cost of the works involved is fully recovered?

2.2.6. Twelve consultees agreed with the proposal, while six were against. One consultee did not answer the question.

2.2.7. Some of those in favour suggested that the cap currently hinders the tenant from completing work.

2.2.8. Some comments stated that removing the cap and allowing unlimited recovery of costs in a single payment may cause great hardship to the landlord and the landlord should be able to refer the matter to arbitration.

2.2.9. We also received comments on the increase of the amount recoverable from £2000 to £10000. Some suggesting the increase should be index linked, however there was also a suggestion that the cap should increase at the same rate as rent over the same period rather than inflation.

2.3. Model clauses – consolidation and revocation The Agriculture (Miscellaneous Time-Limits) Regulations 1959

2.3.1. The Model Clauses provide for issues arising under them to be determined by arbitration. Where a liability in respect of fixed equipment has been transferred under sections 6,7 or 8 of the AHA, the Agriculture (Miscellaneous Time-Limits) Regulations 1959 provide the period of one month in which:

a) a landlord may require an arbitration to determine compensation payable by the tenant where liability for maintenance and repair of fixed equipment has been transferred to the landlord; or

b) a tenant may require arbitration to determine their claim against the landlord for the landlord's previous failure to discharge the liability for the maintenance or repair of any item of fixed equipment which is transferred to the tenant.

2.3.2. The legislative landscape needs to be simplified. With that in mind, we consulted on whether the above regulation should be consolidated with the Model Clauses.

Responses

Are you content that the legislation is consolidated as proposed?

2.3.3. Seventeen consultees agreed with the proposal, while one disagreed. One consultee did not answer the question.

The Agriculture (Time-Limit) Regulations 1988

2.3.4. The Agriculture (Time-Limit) Regulations 1988 provided a three month transitional period after the date the 1988 amendment to the Model Clauses came into force during which a landlord or tenant could make a reference to an arbitrator for the purposes of specifying the terms of their tenancy agreement in writing under section 6 of the AHA. The arbitrator determining that reference must disregard the variation to the Model Clauses.

2.3.5. This regulation provided transitional arrangements for a three month period in 1988 and is therefore now redundant. Therefore we proposed revoking the Agriculture (Time-Limit Regulations) 1988, to tidy up the statute book.

2.3.6. We sought views on whether a similar transitional period was necessary for the introduction of the proposed new Model Clauses.

Responses

Do you consider that a transitional period is required? If yes, please state why. Please also state the period you consider appropriate and why.

2.3.7. Fifteen consultees agreed that a transitional period is not required, while three thought a transitional period would be helpful. One consultee did not answer the question.

2.3.8. The consultees who agreed that a transitional period is needed stated that the changes to the Model Clauses were considerable and time was needed to take the changes into account. Also the period would ensure each party has fulfilled their obligations under the existing model clauses and no party unknowingly adopts liabilities off the other party where responsibilities have been altered.

2.3.9. One consultee suggested a 4 year period was appropriate, another suggested 12 months.

3. Compensation

3.1.1. Compensating an outgoing tenant for the value of fertilised land or crops left behind encourages the tenant to farm sustainably in the last years of a tenancy and therefore assists an incoming tenant whose tenancy may start too late in the year to effectively cultivate the land or to remedy any deficiencies in soil status.

3.1.2. The AHA makes provision for the right to compensation payable to a tenant upon termination of an agricultural tenancy and for the measure of such compensation. Schedule 8 of the AHA provides a comprehensive list of improvements and tenant right matters for which compensation is payable to tenants.

3.1.3. The AHA does not currently require the landlord to compensate for benefits derived from the application of:

- inputs that have not been purchased;
- soil conditioners (including compost) and digestate; and
- manure produced by certain livestock species.

3.1.4. The Agriculture (Calculation of Value for Compensation) Regulations 1978 (as amended) ("the Compensation Regulations") contain detailed provisions for the method of calculating the amount due to an outgoing farm tenant for the items listed in Schedule 8 of the AHA. The Compensation Regulations also include tables prescribing the values for compensation for phosphoric acid, potash, purchased farmyard manure and the unexhausted manurial value of certain feeding stuffs.

3.1.5. The Compensation Regulations were last amended in 1983 and accordingly do not compensate for the value of inputs to the land at current market prices. For example manurial values of both fertiliser and feed consumed on the holding have been based on the cost of nitrogen, phosphate and potash fertiliser in the late 1970s. Since then fertiliser prices have been volatile and risen sharply. Accordingly outgoing tenants are not being adequately compensated for their inputs and are therefore not incentivised to maintain the land when nearing the end of their tenancy.

3.1.6. Further, by prescribing a detailed method of calculation in secondary legislation (as is current practice) we are restricting flexibility and constraining parties who could otherwise settle a claim in a way that reflects current market prices.

3.1.7. We consulted on whether:

i. an outgoing tenant should be compensated for non-purchased inputs, trace elements and a wider range of beneficial material.
ii. compensation to an outgoing tenant for manurial value from consumption of corn and brought in feed should include that by any animals kept on the holding for agricultural purposes.
iii. the Agriculture (Calculation of Value for Compensation) Regulations 1978 should be revoked. Instead compensation should be on the basis stipulated in the AHA namely that the amount of compensation for any improvement or matter outlined in the Act "*shall be the value of the improvement or matter to an incoming tenant*" without further prescription.

Responses

Do you agree that the tenant should be compensated for inputs that have not been purchased, trace elements in addition to magnesium and copper, and other beneficial material such as soil conditioners?

3.1.8. Twelve consultees agreed with the proposal, while six disagreed. One consultee did not answer the question.

3.1.9. Comments agreeing with the proposal recognised that compensating for inputs, as suggested, recognises the need to improve soil quality and encourage good husbandry. However some in support suggested that compensation should be given, but with set conditions. One comment suggested that the compensation should only be paid for beneficial inputs that have not been purchased and where it is possible to identify the residual benefit of the material at the end of term. Another comment suggested the compensation should be subject to the provision of necessary evidence of quality, quantity and timing of application.

3.1.10. Consultees against the proposal suggested that the tenant should not be compensated, as the tenant would have benefited by increased yields through good farming practice. It was also stated that "purchased or introduced to the holding" should be included into the wording of the regulation and there was no need to include other materials.

Do you agree that compensation to an outgoing tenant for manurial value from consumption of corn and brought in feed should include that by any animals kept on the holding for agricultural purposes?

3.1.11. Fourteen consultees agreed with the proposal, while four disagreed. One consultee did not answer the question.

3.1.12. There were a couple of questions around the widening of the wording to include any animal kept on the holding. There was a suggestion that the wording should be more generic, while another comment stated that the current wording should be extended to include “goats, farmed deer and camelids”.

3.1.13. It was stated that tenants should not be compensated for improvements brought about as an aside to their normal business, without agreement of the landlord. Also it was suggested that the terminology “shall be value of the improvement or matter to an incoming tenant” is too open ended and may result in more disputes, as an improvement may not be seen as an improvement for the new tenant.

Do you agree with the proposal to remove the prescribed method for calculating compensation and the tables specifying the unit value of commodities i.e. to revoke The Agriculture (Calculation of Value for Compensation) Regulations 1978 (as amended)?

3.1.14. Fourteen consultees agreed with the proposal, while three disagreed. Two consultees did not answer the question.

3.1.15. There were not many comments, however a comment against the proposal stated that the method of calculation was a carefully considered methodology when first adopted and the values applied to the commodities should be updated. Also another comment against the proposal suggested that by removing the calculation it may lead to considerable cost to valuers and their clients.

3.1.16. There was also a suggestion that disputes on end-of-tenancy compensation should be settled by an expert rather than arbitration. This would be a quicker and more cost effective dispute resolution process.

4. The government's response and next steps

4.1. Model clauses

4.1.1. The proposals relating to liabilities for fixed equipment generated a range of views which broadly related to being precise in defining a liability so there was no ambiguity of what was in and out of scope, and in the reasonableness of a given party being responsible for a particular liability. We are reviewing the proposed changes in light of the responses received, working closely with stakeholders in finalising the policy changes.

4.1.2. We intend to revoke the Agriculture (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1973. We will then draft a new regulation after consideration of the responses to our proposals for the Model Clauses set out in the consultation. The new regulation will also carry over sections of the current Model Clauses which are not being amended, but will be re-written to modernise the wording or make the existing clauses easier to understand. Consultation responses suggested a use of a table would help to clearly define the split of liabilities between landlords and tenants . We will give this consideration while drafting the SI.

4.1.3. The majority of consultation responses supported consolidation of the new Model Clauses with the Agriculture (Miscellaneous Time-Limits) Regulations 1959. We therefore intend to consolidate to simplify the legislation landscape.

4.1.4. No one objected to the proposal to revoke the Agriculture (Time-Limit Regulations) 1988. The majority of responses agreed a transitional period for the new Model Clauses would not be necessary. However a minority of respondents considered a transitional would be helpful. We will consider these before taking a final decision.

4.2. Compensation

4.2.1. The vast majority of the consultation responses supported the proposals. We therefore intend to:

- require compensation to be paid for improvements arising from the application to the land of soil improvers and digestate regardless of how they were acquired. We will not include a catch all reference to "other

beneficial materials” as there is concern that waste disposal materials could fall into this category.

- require compensation to be paid for improvements arising from the application to the land of manure and fertiliser regardless of how it was acquired.

- expand the provision of compensation for improvements arising from the application of manure, resulting in compensation being payable in respect of a wider range of livestock.

- revoke the Agriculture (Calculation of Value for Compensation) Regulations 1978.

Annex A – Respondents to the consultation

- Balfours LLP
- Central Association of Agricultural Valuers
- Country and Land Business Association
- F M Lister & Son
- Foot Anstey LLP
- Merryweathers
- National Farmers Union
- National Federation of Young Farmers' Clubs
- National Trust
- Private individuals
- Royal Institution of Chartered Surveyors
- Savills (UK) Limited
- Smiths Gore
- Tenant Farmers Association