

DRS4

## RICS Dispute Resolution Service (DRS)

Request for the appointment of an Arbitrator or Independent Expert under the Agricultural Holdings Act 1986 & Agricultural Tenancies Act 1995 to resolve a rural dispute other than rent review.

To help you complete this application, please refer to the notes within this application for guidance. They are designed to help you, and they are not intended as a full statement of the law and cannot override any statutory requirements. This application form is for use in all non-rent cases under the Agricultural Holdings Act 1986, Agricultural Tenancies Act 1995 and any other statutes referred to in the explanatory notes within this application form

### Notes to consider before completing the application:

- This form should be used where the parties have been unable to agree an arbitrator or independent expert and wish the President of the duly appointed agent to appoint under the Act(s).
- To make an application, this form must be accompanied by the appropriate fee, currently **£195.00**. There is no VAT payable on rural applications. If more than one holding is to be referred to arbitration, the fee is payable (and a separate form must be submitted) in respect of each holding.
- RICS reserves the right to copy this application to the non applicant party. RICS is not required, by law to provide a copy of the application form and/or related correspondence to the non-applicant party and does not do so automatically. However, as a matter of good practice, RICS will provide a copy of the form and/or correspondence to the non-applicant party on request.
- This application form is the contract between the applicant and the President and will rely entirely upon the information contained herein. The information submitted on this application is accepted on being accurate and complete. RICS or the appointed party cannot accept liability in relation to the appointment if the information provided is inaccurate or incomplete.
- Your application is processed on the basis that appointments are often made on behalf of the President of RICS by one of the duly appointed agents.
- Both the Agricultural Holdings Act 1986 and the Agricultural Tenancies Act 1995 provide for various conditions (including strict time limits) to be satisfied before the President can appoint a dispute resolver. The President will not be responsible for checking that these conditions have been satisfied, it is the responsibility of the parties to do so.
- **Please note:** Following the Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006, all arbitrations are now regulated by the Arbitration Act 1996.
- If the dispute is resolved before the President makes an appointment, you must notify RICS as soon as possible.

## Information about the Holding

Is this application being submitted by or on behalf of the Landlord or the tenant? (please tick as appropriate):

Landlord

Tenant

We need to understand the nature and location of the holding. This aids the selection of someone who is appropriately qualified and experienced.

Holding Address (please provide the full address including the postcode): \_\_\_\_\_

\_\_\_\_\_

Town/City: \_\_\_\_\_ Postcode: \_\_\_\_\_

Brief description of the holding (Give description of the holding for example, arable, dairy, market garden):

Approximate Area (please give an

approximate indication of the size of the holding): \_\_\_\_\_

Hectares  Acres (please tick as appropriate)

## Dispute details

Which Act are you applying under? (please tick as appropriate):

Agricultural Holdings Act 1986

Agricultural Tenancies Act 1995

Other (please state): \_\_\_\_\_

Do you require an Arbitrator or Independent Expert? (please tick):  Arbitrator  Independent Expert

Please indicate the provision of the relevant Act or Statutory Instrument in respect of which outcome is required; For full details see the information in the explanatory notes at the end of this form

Agricultural Holdings Act 1986

The Agriculture (Model Clauses for Fixed Equipment) (England) Regulations 2015 2015/950

Agriculture Holding (Arbitration on Notices) Order 1987 SI 1987/710 as varied

Agriculture Act 1986 (Milk Quotas)

**Please indicate which section, article or schedule applies** (please see the details within the explanatory notes at the end of this form)

Where the request for an Arbitrator/Independent Expert is in respect of cases A,B,D or E Notice to Quit, the application, accompanied by the fee, must be received by RICS before the expiry of 3 months after the date of the service of the notice under Article 9 of the Agricultural Holdings (Arbitration on Notices) Order 1987

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### Information about the parties and their representatives

The parties' professional representatives must be stated. Where a party is unrepresented, please ensure contact numbers and email addresses are included. Unless you notify us otherwise, we will forward all relevant correspondence to them. Normally communications from RICS are sent by email. It is therefore essential that you provide valid email addresses to which any communications can be sent. Giving these addresses will be taken as authority for RICS to use them.

#### Current Landlord

Name:

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Address:

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Town/City:

Postcode:

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Email:

Telephone:

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Original Landlord (if applicable):

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Parent associated companies:

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## Information about the parties and their representatives (continued)

### Current Tenant

Name:	
Address:	
Town/City:	Postcode:
Email:	Telephone:
Original tenant (if applicable):	
Parent associated companies:	

### Landlord Representative (if any)

Title:	First Name:	Last Name:
Designation:	RICS Membership Number (if applicable):	
Firm name:		
Address:		
Town/City:	Postcode:	
Telephone:	Mobile:	
Direct line:	Email:	

### Tenant representative (if any)

Title:	First Name:	Last Name:
Designation:	RICS Membership Number (if applicable):	
Firm name:		
Address:		
Town/City:	Postcode:	
Telephone:	Mobile:	
Direct line:	Email:	

### Conflicts of interest

RICS will take reasonable steps to ensure that the appointed arbitrator or independent expert is free from conflict of interest. It is therefore essential that you provide details of the landlord and tenant (including any parent and/or subsidiary companies or related entities that a prospective appointee would need to consider in their conflict checks).

If, in your view, there are any persons who would have a conflict of interest in this case, you should list them in the box below. Please also provide for each such person brief but clear reasons for this statement. Your attention will be drawn to the decision in Eurocom Limited-v- Siemens PLC [2014] EWHC 3710 (TCC) to the effect that misrepresentation in this statement could vitiate the appointments process in its entirety, rendering any award made unenforceable.

Name	Firm	Reason

**Please note:** While the President will give careful consideration to any representations, he/she will reach his/her own decision as to whom is appointed.

### How to pay

RICS charges an administration fee of **£195.00** to make an appointment. There is no VAT payable. This payment is non-refundable whether or not the President makes the appointment (e.g. if the matter is settled by agreement and the application is withdrawn). **An application must be submitted with the correct payment**

#### You can choose to pay by the following:

- A card payment. One of our advisors will contact you to arrange payment. Please tick this box:
- By using your bank or building society to pay the application fee.

#### RICS Bank account details:

Account number: 30786339

Sort code: 56-00-45

Swift Code: NWBK GB2L

You must provide the name and the postcode of the holding. This will ensure that your payment is correctly allocated and your application is processed. Please email a copy of your bank's confirmation to [drs@rics.org](mailto:drs@rics.org)

- Debit my RICS trade account number:

Account holders will be invoiced by our Finance Department. To apply for an account please email [drs@rics.org](mailto:drs@rics.org) Confirmation of the payment must be included with the application.

RICS is unable to accept credit or debit card details by email due to PCI compliance regulations. Please be aware the applicant party has responsibility to ensure that payment is complete.

### Application submitted by:

Landlord     Tenant (please tick as appropriate)

Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Submitting this application to RICS Dispute Resolution Service confirms that you have read and understand the explanatory notes contained in this application form. Your application is accepted on this basis.

### Your privacy:

RICS takes the privacy and security of the personal information you provide very seriously. Your details are held in a secure database with authorised access only. We apply data processing policies in compliance with the Data Protection Act 1998 and the Privacy and Electronic Communications Regulations (EC Directive 2003). RICS will not use the information you provide in this application to contact you with offers of products and services. Nor will RICS share your information with third parties for the purpose of sending you details of offers of products and services.

## Explanatory notes:

- These notes are for information only. They are not intended as a full statement of the law and cannot override statutory requirements; The applicant must ensure they have complied with all the necessary formalities.
- RICS has a duty to act independently and transparently when appointing a Dispute Resolver. On receipt of a request, DRS will select a suitably qualified dispute resolver, who is free from conflicts of interest, normally from the President's panel of dispute resolvers. Details of your application will be sent to prospective third parties to help them decide whether they are able to take on the appointment.
- After checking that the dispute resolver meets the criteria, an appointment is confirmed on or on behalf of the President and the parties and the dispute resolver are notified.
- The application form contains sections to obtain information about the holding, the Act and the parties. To help DRS select someone who will have the confidence of the parties we rely on the information given in your application. An incomplete or incorrect application can result in an inappropriate appointment. It is vital that you complete all parts of the application form; incomplete sections may result in delays.
- RICS DRS reserves the right to copy the application and/or any accompanying documentation to the responding party and/or representatives. This is on the basis of your application being accepted.
- If the dispute is resolved before the President makes an appointment, you must notify RICS DRS as soon as possible.
- If the matter is close to settlement a case can be withdrawn or placed on hold. The case can only be withdrawn or placed on hold with the agreement of both parties before the appointment is made. The applicant must submit a DRS5 request for the appointment of an arbitrator/independent expert to be withdrawn or placed on hold. This form can be located at [www.rics.org/drs](http://www.rics.org/drs)
- The parties are reminded that they maybe jointly and severally liable, under contract of statute, for payment of the dispute resolvers' reasonable fees (including abortive fees for any work undertaken if the matter is settled before a decision is given).

## Agricultural Holdings Act 1986 Disputes

Section	Details required
<b>Section 2 (4)</b>	Any dispute arising as to the operation of this section in relation to any agreement shall be determined by arbitration under this Act.
<b>Section 6</b> (securing written tenancy agreements)	The date of service of the request to the landlord or tenant from the tenant or landlord seeking to enter into a written agreement, or to provide in the existing agreement for any matter specified in the First Schedule to the 1986 Act that is not included in the existing agreement.
<b>Section 8 (1) &amp; (2)</b> (terms of tenancy relating to Maintenance, Repair and Insurance of Fixed equipment)	The date of service of the landlord's or tenant's request to bring the existing tenancy agreement into conformity with regulations made under Section 7(1) of the 1986 Act prescribing terms as the maintenance, repair and insurance of fixed equipment. The current regulations are The Agricultural (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1973 SI No 1473 as amended.
<b>Section 9 (1)</b> (compensation on transfer of liability for maintenance or repair of fixed equipment from tenant to landlord)	(a) The date on which the liability for the maintenance or repair of any item of fixed equipment was transferred (by virtue of Sections 6, 7 or 8 of the 1986 Act). (b) The date of service of the landlord's demand for the matter to be determined by arbitration (this must be within one month from the date when the transfer takes effect as laid down in the Agriculture (Miscellaneous Time-Limits) Regulations 1959: SI No 171 Regulation 2(2).
<b>Section 9 (3)</b> (compensation to the tenant for the landlord's failure to comply with existing terms on transfer of liability for maintenance or repair of fixed equipment from landlord to tenant)	(a) The date on which the liability for the maintenance or repair of any item of fixed equipment was transferred (by virtue of Section 6, 7 or 8 of the 1986 Act). (b) The date of service of the tenant's demand for the matter to be determined by arbitration (this must be within one month from the date when the transfer takes effect as laid down in the Agriculture (Miscellaneous Time-Limits) Regulations 1959: SI No 171 Regulation 2(3)).
<b>Section 10</b> (tenant's right to remove fixtures and buildings)	(a) The date the tenancy terminated (if applicable). (b) The date of service of the notice by the tenant on the landlord of his intention to remove fixtures or buildings (notice must have been served at least one month before the right is exercised and the tenancy is terminated). (c) The date of service of the landlord's counter-notice electing to purchase the fixtures or buildings. (Counter-notice must have been served before the expiry of the tenant's notice above).
<b>Section 13</b> (increase of rent for landlord's improvement)	(a) The date of completion of the improvement. (b) The date of service of the landlord's notice requiring the rent to be increased (notice must have been served within six months from the completion of the improvement).
<b>Section 14</b> (terms of tenancy as to area of permanent pasture)	The date of service of the notice by the landlord or tenant on his tenant or landlord demanding arbitration on the question whether the area of land required to be maintained as permanent pasture should be reduced.

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Section	Details required
<b>Section 15</b> (claims under s15(6) for injury or deterioration of holding as a result of the tenant's exercising rights under s15(1))	State whether or not the arbitration is required for the purposes of any proceedings for an injunction to restrain the exercise of the tenant's rights under Section 15(5) of the 1986 Act.
<b>Section 20</b> (tenant's right to compensation for damage by wild animals or birds)	(a) The date of service of the tenant's notice to the landlord before the expiration of one month after the tenant first became or ought reasonably to have become aware of the damage. (b) The date of service of the claim given to the landlord within one month after the expiration of the year in respect of which the claim is made. (c) The date which is the end of the year for the purposes of question (b) above. (Unless the landlord or tenant agree on a different date, 29 September will be taken as the year-ending date).
<b>Section 33</b> (reduction of rent following resumption of possession of part of holding by landlord)	The date the landlord resumed possession of part of the holding.
<b>Section 48(3) &amp; (4)</b> (succession on death – rent and/or terms of new tenancy, please specify)	(a) The annual term date of the tenancy. (b) The date the tenant died. (c) The ALT which gave the direction under Section 39 of the 1986 Act. (d) The date of the direction. (e) The date of service of the notice to quit (if applicable). (f) The date of service of the demand for arbitration by the landlord or the tenant. (g) If the ALT extended the relevant time under Section 46(2) of the 1986 Act, give the extended date.
<b>Section 56(1) &amp; (3)</b> (compensation to the tenant for the landlord's failure to comply with existing terms on transfer of liability for maintenance or repair of fixed equipment from landlord to tenant)	(a) The annual term date of the tenancy. (b) The date of service of the retirement notice under Section 49(1)(b) (c) The ALT which gave the direction under Section 53(7) (d) The date of the direction. (e) The retirement date. (f) If the ALT extended the relevant time under Section 55(8) give the extended date. (g) The date of service of the demand for arbitration by the landlord or tenant.

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Section	Details required
<b>Section 83</b> (settlement of claims on termination of the tenancy)	(a) The date of the termination of the tenancy. (b) The date of service of the notice(s) by the landlord/tenant on the tenant/landlord of his/their intention to make a claim. (For the claim to be enforceable, the landlord/tenant must, before the expiry of 2 months from the termination of the tenancy, have served notice in writing on his tenant/landlord of his intention to make the claim.) (c) in the case of a claim for disturbance under Section 60 of the 1986 Act: i) the date of service of the notice to quit; ii) the date of service of the tenant's counter-notice under section 32 of the 1986 Act (if applicable); iii) the date of service of the tenant's notice, on the landlord, before the termination of the tenancy stating his intention to make a claim greater than that stated in Section 60(3)(a) of the 1986 Act (if applicable)

### Agriculture (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1973 SI 1973/1473

Section	Details required
<b>Paragraph 4(3)(a)</b> (rights and liabilities of the landlord with respect to repairs and replacements)	(a) The date of service of the landlord's notice under paragraph 4(2) of the Schedule to the 1973 Regulations calling on the tenant to execute necessary repairs or replacements. (b) The date of service of the tenant's counter-notice denying liability and requiring arbitration. (This must be served within one month of service of the landlord's notice).
<b>Paragraph 12(3)(a)</b> (rights and liabilities of the tenant with respect to repairs and replacements)	(a) The date of service of the tenant's notice under paragraph 12(1) and/or 12(2) calling on the landlord to execute the necessary repairs and/or replacements. (b) The date of service of the landlord's counter-notice denying liability and requiring arbitration.
<b>Paragraph 13</b> (redundant fixed equipment)	The date of service of the notice by the landlord or tenant requiring arbitration on the question whether any item of fixed equipment is redundant to the farming of the holding.
<b>Paragraph 15</b> (other matters)	If any claim, question or differences shall arise between the landlord and the tenant under the foregoing provisions hereof, not being a matter which, otherwise than under the provisions of the paragraph, is required by or by virtue of the Act or regulations or orders made thereunder or the foregoing provisions hereof to be determined by arbitration under the Act, such claim, question or difference shall be determined, in default of agreement, by arbitration under the Act.

## Agricultural Holding (Arbitration on Notices) Order 1987 SI 1987/710, as varied

Section	Details required
<b>3 &amp; 4</b> (notices served on the tenant to remedy breach of tenancy agreement by doing work or repair maintenance or replacement)	(a) The date Form 2 of the Agricultural Holdings (Forms of Notices to Pay Rent or to Remedy) Regulations 1984 was served on the tenant. (b) The date of service of the tenant's notice requiring arbitration (must be within one month of (a) above). (c) State whether the demand for arbitration requires matters to be determined in respect of Article 3 only, Article 4 only or both Articles 3 & 4 of the Agricultural Holdings (Arbitration on Notices) Order 1987.
<b>9</b> (notices to quit served on the tenant under s26 & schedule 3: Part 1 of the Agricultural Holdings Act 1986, Cases A, B, D or E)	(a) The date of service of the notice to quit. (b) State the case under which the notice to quit was given (A, B, D or E) (c) The date of the tenant's notice requiring arbitration (must be within one month of the service of the notice to quit).

## Agriculture Act 1986 (Milk Quotas)

Section	Details required
<b>Schedule 1, paragraph 10</b> (determination of standard quota and tenant's fraction before end of tenancy)	(a) The termination date of the tenancy. (b) The date of service of the notice by the landlord or tenant demanding the determination by arbitration of the standard quota for the land or the tenant's fraction (the notice must be served before the termination of the tenancy).
<b>Schedule 1 Paragraph 11</b> (notices to quit served on the tenant settlement of tenant's claim on termination of tenancy)	(a) The termination of the tenancy as defined in paragraph 11 (b) The date of service of the tenant's notice to the landlord of his intention to make a claim. (This must be before the expiry of two months from the termination of the tenancy as defined in paragraph 11).

## Agricultural Tenancies Act 1995

Section	Details required
<b>Paragraph 19(4)</b> (refusal or failure of landlord to give consent or imposition of condition attached to consent in relation to tenant's improvement)	(a) Date of tenant's notice demanding that the question shall be referred to arbitration. (b) Details of the improvement or proposed improvement. (c) The matter in respect of which the tenant is aggrieved.
<b>Paragraph 22(3)</b> (compensation for tenant's improvement)	(a) Date of the termination of the tenancy. (b) Date of the tenant's notice of intention to make a claim. (c) Details of the claim (d) Has an application been made under section 19(4)? (e) If so, who has made that application? <b>Please note:</b> If an application is made under section 22(3) involving routine improvements at the same time as an application under s19(4) then the president shall appoint the same arbitrator on both applications. If both applications are made by the same person only one application fee is payable

Continued

Section	Details required
<p><b>Paragraph 28(3)</b>            (disputes between the landlord and the tenant concerning their rights and obligations under the Act, under the terms of the tenancy or under any custom)</p>	<p>(a) Date of the notice specifying the dispute.            (b) Details of the dispute.</p>