



## **Agricultural Succession Tenancies: Am I Eligible to Apply?**

Many families will want to continue to farm the land following the retirement or death of an agricultural tenant farmer. In this Q&A, landlord and tenant specialist, James Holton, examines the issues for someone applying for a succession tenancy to consider.

### **What are the circumstances in which there may be succession rights?**

Provided the relevant criteria are met and no exclusions apply, a close relative of the tenant has a statutory right under the Agricultural Holdings Act 1986 to apply for a succession tenancy in the following circumstances:

- On the death of a sole or sole surviving tenant
- On retirement of a tenant of a yearly tenancy where they have been nominated as their successor

### **Are there any exclusions?**

Some types of tenancy are excluded from succession rights. The most common examples include:

- A tenancy granted on or after 12 July 1984 (unless for example it is stated to include succession rights)
- Where two successions have already occurred
- The landlord has served a valid notice to quit

### **When should an application be made?**

An application should be made to the First-tier Tribunal:

- Within one month of service of a notice from the tenant of their retirement. The retirement notice will specify the name of the tenant's successor.
- Within three months of notification of the tenant's death.

### **Can I prove that I am eligible?**

An applicant to the Tribunal must fulfil the following requirements:

- Be a close relative of the deceased or retiring tenant
- Satisfy the livelihood condition
- Satisfy the occupancy condition
- Be a suitable person to become the tenant

### **Who is a close relative?**

A close relative can be any of the following:

- Wife, husband or civil partner
- Brother or sister
- Child
- A person treated by the deceased or retiring tenant as a child of the family

### **What is the livelihood condition?**

The livelihood condition requires the applicant to demonstrate that the holding is their only or principal source of income.

### **What is the occupancy condition?**

The occupancy condition excludes an applicant who already has a secure right to occupy other economically viable land.

### **Who is a suitable person?**

When considering whether an applicant is a suitable person, the Tribunal will consider the following:

- The applicant's agricultural training and practical experience.
- The applicant's age and physical health.
- The applicant's financial position.
- The landlord's views on the applicant's suitability.
- Any other matters which the Tribunal considers relevant.

### **DTM Legal LLP**

DTM Legal has a wealth of experience across all farming and agricultural matters and our experts provide a full legal service for farming and estates clients. It is important to plan early ahead of retiring from an agricultural tenancy and our agriculture team can assist you with this.

James Holton is named as a "rising star" in the Legal 500 and is a landlord and tenant specialist. To contact James please email him at [james.holton@dtmlegal.com](mailto:james.holton@dtmlegal.com) or telephone 01244 354800.

**Chester: Archway House, Station Road, Chester, CH1 3 RD T: 01244 354 800**

**Liverpool: Suite C, 3<sup>rd</sup> Floor, No.4 St. Paul's Square, Liverpool, L3 9SJ T: 0151 321 0000**



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