

## Guidance Booklet: Making an Application under the Agricultural Holdings Act 1986

This guidance document is also available in Welsh. Please contact the tribunal for a Welsh version of this document.



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**It is important that you read the following guidance before completing any application form.**

Please note that this booklet is intended to provide general guidance only. It is not in any way a substitute for the legislation governing applications to the Agricultural Land Tribunal for Wales, or for professional advice given in the light of personal circumstances.

It is essential for anyone applying to the Agricultural Land Tribunal or involved in Agricultural Land Tribunal proceedings to familiarise themselves with the relevant legislation, or to seek professional advice.

You should contact the ALT if you have any questions about how to make an application or if anything is unclear about the process. We cannot however give legal advice or help with making or responding to an application.

## What is the Agricultural Land Tribunal for Wales

The Agricultural Land Tribunal for Wales (ALT Wales) plays an important role in determining disputes and other issues between agricultural landlords and tenants, arising from tenancy agreements held under the Agricultural Holdings Act 1986.

New tenancies entered into on or after 1 September 1995 are farm business tenancies and are subject to the provisions of the Agricultural Tenancies Act 1995. There is no recourse to the ALT Wales under the 1995 Act. Instead, general disputes are resolved by recourse to arbitration, and subject to the provisions of the Arbitration Act 1950. Parties may contract out of the statutory provisions and substitute their own arrangements, but cannot contract to have disputes settled by the ALT Wales.

The ALT Wales also determines disputes relating to the drainage of agricultural land under the Land Drainage Act 1991.

The ALT Wales is an independent statutory body with jurisdiction for the geographical area of Wales.

### Tribunal Membership

The Lord Chancellor is responsible for the appointment and re-appointment of the Chairman, Deputy Chairman and Lay Members. Appointments are made following the advertisement of vacancies and competitive interview by the Judicial Appointments Commission.

Chairman	The Chairman has responsibility for the overall judicial administration of the Tribunal.
Lay Members	Lay Members have a wide range of relevant knowledge and experience which they bring to each Hearing. They sit on the Land Drainage, Farmer or Landowner Panels.
Secretary	The day-to-day administration is largely delegated to the Secretary who deals with all the preliminary paperwork and the processing of applications to the Tribunal. The Secretary consults the Chairman on any legal points arising during the preliminary pre-hearing stages of the proceedings and passes on the Chairman's rulings and Directions in writing to the parties. The Secretary acts as a point of contact for the Chairman, Members and parties and attends all Hearings in order to ensure that proceedings run smoothly.

## **Making an Application: General**

### **When can I make an application to the Tribunal?**

The Agricultural Holdings Act 1986 lays down strict time-limits for making certain types of applications. These time-limits can not be extended. Please check the specific guidance sections in this booklet to see if there are applicable time-limits.

### **How do I make an application to the Tribunal?**

To make an application you must complete and send the relevant application form to the Agricultural Land Tribunal for Wales. Applications can be sent to us by post, fax or email. Contact details can be found on the front of this guidance booklet.

Application forms and guidance booklets can be downloaded from the website for the Tribunal, or please contact the Tribunal's office if you would like us to send you an application form.

### **What do I need to tell you/send to the Tribunal?**

- 2 copies of the application form
- 2 copies of a map (where possible, this should be on a scale of 1/10,000 or larger)

The Chairman of the Tribunal has power in all cases to dispense with maps, etc. (e.g. if they are already in the possession of the Tribunal). A request for a direction on this subject should be made in writing before or at the time of sending the application.

The specific guidance sections in this booklet describe the additional documents and information applicants should supply with their application. Failure to include such documents and information can hold up proceedings. If you have information or evidence which supports your application, you should include it when you send in your application.

### **Do I have to pay a fee to the Tribunal?**

There are no fees for making an application to the Tribunal. Parties must meet their own costs incurred in making an application e.g. travelling costs to attend the Hearing

### **Language Preference**

The ALT welcomes receiving correspondence in Welsh or English. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding. The Tribunal also welcomes phone calls in Welsh or English.

You may submit forms, documents and make written representations to the ALT in Welsh or English.

### **What happens once the Tribunal receives my application?**

The Tribunal will acknowledge your application. The Tribunal will register your case within 10 working days or write to you to request further information. On registration, a copy of the Application will be sent to the party named as the Respondent.

### **What if I have any additional needs?**

Please make sure that you give details of any additional needs when you send us your application. For example, you should say if you need a signer or an interpreter at the hearing, or need any additional arrangements to be made so you can come to the hearing.

### **Can I send an application to the Tribunal by email?**

The Agricultural Land Tribunal for Wales does accept applications and correspondence by email.

### **Do I have to send original documents with the application?**

You do not have to send original documents. In the first instance please provide photocopies. If there is a Hearing you may be asked to produce the originals.

### **Can my representative send and receive documents on my behalf?**

Your representative can send in the application and any information on your behalf. If the application form is signed by any person other than the applicant, that person should state in what capacity or by what authority they sign. A copy of the written authority should be included with the application.

### **Can the Tribunal recommend any representatives to assist me with my application?**

As a Judicial Body the Tribunal cannot make recommendations about representatives or provide advice about applications.

### **What happens if I wish to withdraw my application?**

The applicant or their representative can withdraw an application at any stage. The Tribunal should be informed in writing.

### **What will the Respondent do about my application?**

Once your application is served on the party named as the Respondent, they will be given a set amount of time to respond. A copy of any responses received will be sent to you. Unless the application is withdrawn or resolved through an agreement, then the matter will proceed to a Hearing for the Tribunal to decide.

### **Are there time-limits for responding to the Tribunal?**

You will be advised of any time-limits for responding to the Tribunal. The time-limits may be extended but only if the Tribunal Chairman considers there are good reasons for doing so. The Agricultural Land Tribunals (Rules) Order 2007 explains the consequences of failure to apply to an application within the time allowed by the rules.

### **Is my application kept confidential?**

Information provided to the Tribunal in connection with an application will only be disclosed to those involved in the case. However, Hearings take place in public. When a case goes to formal Hearing all information provided by any party becomes public information, unless there are exceptional reasons that make it desirable for any of the proceedings to take place in private.

### **How will documents be sent to me?**

All procedural documents will be sent by Royal Mail Recorded or Special Delivery.

### **Can I make my application in Welsh?**

The Agricultural Land Tribunal for Wales accepts applications and correspondence in Welsh.

### **Can the Tribunal provide advice?**

The Tribunal is an independent Judicial Body and must therefore remain impartial when dealing with disputes. The Tribunal secretariat can provide advice about Tribunal procedures; the Tribunal cannot though provide legal advice or guidance about how to present a case.

### **What if my land falls partly within Wales and partly within England?**

Where land falls partly within Wales and partly within England, then the Tribunal for the area in which the greater part is situated, will consider the application.

**How long does it take from when the Tribunal receives an application to when it issues a Decision?**

The timescale will vary depending on the type of case but the Tribunal always endeavours to deal promptly with applications.

## **The Tribunal Hearing**

### **Will there be a Hearing?**

An application to the Agricultural Land Tribunal for Wales does not necessarily result in a Hearing. Many cases are settled between the parties and do not require a Hearing.

### **When will you tell me about the date of the Hearing?**

The Tribunal will advise parties of the date, time and location of the Hearing. The Tribunal will notify parties at least 14 days before the Hearing.

### **Where will the Hearing be held?**

Hearings are arranged to take place in a suitable venue close to the land in question.

### **When will the Hearing be held?**

The Hearing will be held on a date that is convenient for all parties and the Tribunal.

### **What time does a Hearing start and how long will it last?**

Hearings usually start at 10:00 am. They usually take all day but do not normally continue after 5:00 pm. You will be advised by the Tribunal how many days your Hearing has been listed for.

### **Who will be at the Hearing?**

Hearings are open to the Public but normally only the Parties, the Tribunal and its Clerk are present. The Tribunal may direct the personal attendance of any maker of a witness statement, affidavit or expert report.

### **What happens at the Hearing?**

The Tribunal will explain the procedure on the day but both parties will be given adequate opportunity to put their case to the Tribunal and to ask questions. The Tribunal Members will also ask questions so they can reach a Decision.

### **Do I have to come to the Hearing?**

It is in your interests to attend the Hearing so that the Tribunal hears what you have to say about the application. The Tribunal may have some questions they want to ask you. You may also want to ask questions.

### **Do I need to have legal representation?**

You do not need to have legal representation.

Where parties are not represented, the Chairman will explain the issues in the case and the Tribunal procedures. The Tribunal can not however, advise parties as to the merits of their case, or how to proceed.

### **Can I bring someone with me to the Hearing?**

Tribunal hearings are open to the public therefore anyone can attend. Witnesses are not allowed to give evidence in a case unless the Tribunal has been formally notified and a witness statement has been provided.



### **Can I bring someone to speak on my behalf?**

You need to write to the Tribunal informing them of your intention and providing the name and address of the person who will be attending to speak on your behalf. The Tribunal will inform the other parties of your intention.

### **What if I need more time before the Hearing to submit evidence?**

The Tribunal may in certain circumstances agree a postponement. However the Tribunal will need to be convinced that it is justified. You will need to make a written application to the Tribunal setting out your request for a postponement and the reasons why.

### **Why do I have to complete an attendance form?**

All parties must inform the Tribunal whether or not they intend to be present or represented at the Hearing. Parties must also advise whether they intend to bring any witnesses.

If you make any changes to the people listed on your attendance form you should let the Tribunal know immediately.

### **Can I claim expenses?**

The Tribunal is unable to pay expenses.

### **Can I/my representative/witnesses give evidence in Welsh?**

Equality is given to both the Welsh and English languages and evidence can be given in either language.

If you/your representative/witnesses wish to give evidence in Welsh, please advise the Tribunal before the Hearing so arrangements can be made for translation.

### **Will the Hearing be held in private?**

All Hearings are held in public unless there are exceptional reasons for the Hearing to be held in private. If you wish for the Hearing to be held in private, you must write to the Tribunal with full reasons for your request.

### **How is evidence given at a hearing?**

Evidence is normally given on oath or affirmation. Parties may; give evidence, call witnesses, question witnesses and address the Tribunal.

### **What is a site visit?**

A site visit is an inspection of the land to which the application relates. The Tribunal may inspect the buildings, land and any livestock, equipment and produce.

### **Can I say anything to the Tribunal panel at the site visit?**

Both parties can draw attention to any physical aspect of the property that they wish the Tribunal to see. However parties may not make any representation during the inspection. Representations can only be made at the hearing orally or in writing.

### **What are the types of cases that require the Tribunal to complete an inspection of the site?**

Almost all cases will require the Tribunal to carry out an inspection.

### **How much notice will the Tribunal give before carrying out an inspection?**

The Tribunal will give at least 24 hours (or 7 days in drainage cases) notice of any site visit.

**When will the site visit be carried out?**

The Tribunal will advise parties at the Hearing when the site visit will be carried out. Site visits usually take place before evidence is given.

**What bio-security will be followed at the site visit?**

The Tribunal follows bio-security as advised by the Welsh Government.

## **The Tribunal Decision**

### **How does the Tribunal make its decision?**

The Tribunal will make its decision by considering all of the evidence. This includes the documents all parties send before the Hearing and also what is said at the Hearing.

### **How long does it usually take the Tribunal to issue its decision?**

The Tribunal will issue its decision normally within 30 working days of the Hearing.

### **Can I request a review of the Tribunal's decision?**

If you think there is a technical problem with the decision and how it was made, you can ask the Tribunal to review the decision. The Tribunal will not review its decision simply because you are not happy.

### **What if there are administrative errors in my decision?**

The Tribunal has the power to issue correction certificates to rectify any clerical or accidental error or omission in a decision. You will need to make a written application to the Tribunal setting your request.

### **What if I disagree with the Tribunal's decision?**

You can appeal to the Upper Tribunal on a point of law. Permission for leave to appeal must first be sought from the Agricultural Land Tribunal for Wales. The Tribunal Decision letter will advise you about any deadlines.

### **Can I view past decisions?**

Yes. Decisions made by the Tribunal will be made available at the Tribunal's office or on the website.

### **How long does the Respondent have to carry out a Tribunal Order?**

The Tribunal Order will state when the Order must be carried out by.

Please see below, additional information regarding applications under the Agricultural Holdings Act 1986.

### **Bad Husbandry (Application Form AG-01)**

The application is made by the landlord against the tenant. The Tribunal may issue a certificate that the Tenant of the holding is 'not fulfilling his responsibilities to farm in accordance with the rules of good husbandry'. Schedule 3 Part 1 Case C states that the landlord can then serve an incontestable Notice to Quit on the tenant within 6 months of the granting of the certificate.

Good Husbandry is defined in Section 2 of the Agriculture Act 1947 as 'having regard to the character and situation of the unit, the standard of management thereof by the owner and other relevant circumstances, the occupier is maintaining a REASONABLE standard of efficient production, as respects both the kind of produce and the quality and quantity thereof, while keeping the unit in a condition to enable such a standard to be maintained in the future'.

The minimum period of notice for termination of tenancy must not be less than two months

### **Burning (Application Form AG-03)**

A tenant may ask the Tribunal that the covenants/conditions/agreements in the lease are:

- avoided completely;
- relaxed permanently;
- relaxed for a set period.

The tenant must outline how the covenants/conditions/agreements are impeding or preventing the proper use of land for agricultural purposes.

Your attention is drawn to the existence of the Heather and Grass Burning Code and the Heather and Grass etc Burning Regulations (or any amendments or replacements thereof). Parties may obtain further information on these on the Welsh Government website and other government and law sources.

## Fixed Equipment (Application Form AG-05)

The tenant of an agricultural holding is entitled to apply to the Tribunal for an Order directing landlord to carry out, within a specified period, such work for the provision or alteration/repair of fixed equipment, as is necessary to enable the tenant to comply with statutory requirements.

The Tribunal jurisdiction can be invoked in either of two situations:

- Where the tenant, in carrying on the agricultural activity specified in his application, would contravene requirements imposed by statute unless fixed equipment were provided; or
- Where fixed equipment is already provided at the holding, and it is reasonable that the tenant should use it for purposes connected with the proposed agricultural activity, it may be necessary for the equipment to be repaired or replaced if breach of statutory requirements is to be avoided.

Before making a direction, the Tribunal must satisfy itself that the carrying on of the agricultural activity proposed by the tenant is reasonable; having regard to the latter's duty to farm the holding in accordance with the rules of good husbandry.

The Tribunal cannot direct the landlord to provide fixed equipment for a proposed agricultural activity unless satisfied that the starting of the activity did not (or will not) constitute 'a substantial alteration of the type of farming carried out on the holding'. If the farming activity specified in the tenant's application has been carried on continuously for a period of at least three years preceding the date of application, the Tribunal can make a direction – even if the change in use it represented was a substantial one. In this case the landlord's consent to the change of use is presumed.

The Tribunal cannot direct the landlord to carry out work unless satisfied that it is reasonable to do so 'having regard to the landlord's responsibilities to manage the land comprised in the holding in accordance with the rules of good estate management'.

The Tribunal jurisdiction cannot be invoked to compel the landlord to carry out work if he is already under a duty to carry out the work in order to comply with a requirement imposed by statute, or if provision is made in the tenancy agreement.

The landlord must be served with a written request to do the work concerned by the tenant. A Tribunal application can only be made if he has failed to carry out the work within a reasonable time or has refused to do so. No strict time limits for service of request and the landlord's response are imposed by the Act.

If the landlord fails to comply with a Tribunal Direction the tenant has the same remedies as if the contract of tenancy had itself contained an undertaking to carry out the work within the period specified by the Tribunal. The tenant can therefore claim damages and/or an injunction in the normal way. The Tribunal does not have enforcement powers.

Under section 11(2) of the Agricultural Holdings Act 1986 the Tribunal cannot direct a landlord to carry out work in connection with an agricultural activity specified in the tenant's application where the activity has not been carried out on the holding continuously for a period of at least three years immediately preceding the making of the application unless they are satisfied that

the starting of the activity did not, or where it has not yet been started, will not constitute or form part of a substantial alteration of the type of farming carried out on the holding.

### **Long Term Improvements (Application Form AG-07)**

An application can be made to the Tribunal for the approval of the carrying out of certain long term improvements.

If the landlord refuses his consent or seeks to impose conditions which the tenant finds unacceptable, the tenant may apply to the Tribunal for approval to the carrying out of the improvement. The Tribunal may give its approval unconditionally or conditionally or may withhold it.

The tenant must first seek the landlord's consent to the improvements, before applying to the Tribunal.

If the Tribunal grants approval, the landlord may, within the prescribed period, give notice in writing to the Tribunal and the tenant that he proposes to carry out the improvement himself.

### **Market Garden (Application Form AG-11)**

A tenant may request their landlord to agree in writing to their holding being treated as a market garden. If the landlord refuses, or fails within a reasonable time to agree in writing that the holding be treated as a market garden, then the tenant can apply to the ALT.

An application can be made under Section 80 of the Agricultural Holdings Act 1989, to direct that the holding/part of the holding shall be treated as a market garden.

If the Tribunal are satisfied that the holding (or part) is suitable for market gardening, they can direct that the enhanced rights to compensation etc. shall apply to all or some of the proposed improvements. The direction can be given subject to such conditions as the Tribunal think fit for the protection of the landlord.

Section 80 (7) gives the Tribunal power to direct that the direction will only become operative if the tenant agrees to the division of the holding into two parts, only one of which is to be treated as a market garden.

A new tenancy accepted by the tenant in accordance with a Tribunal direction, is not treated as a new tenancy for rent review purposes.

## Notice to Quit (Application Form TA-01/TA-02/TA-03)

The Tribunal can consent to the operation of a Notice to Quit. The application is made by the landlord against the tenant.

A landlord has the right to apply to the Tribunal for its Consent to the operation of a Notice to Quit under Section 26 (1) of the Agricultural Holdings Act 1986, as follows:

- (a) A landlord wanting to obtain vacant possession of a holding may serve a Notice to Quit on the Tenant.
- (b) Under Section 26(1), the tenant can then serve a counter notice on the landlord no later than 1 month from the serving of the Notice to Quit.
- (c) The Notice to Quit can then only have effect if the landlord applies to the Tribunal, and the Tribunal consents to its operation.

### Specific Key Deadlines:

Section 26 (1):           The tenant must serve the counter-notice on the landlord no later than 1 month from the serving of the Notice to Quit.

Rule 39:                    The landlord must submit an application for Consent to the Notice to Quit no later than one month of the serving of the counter-notice.

The criteria for how the Tribunal considers an Application for Consent to Notice to Quit is set out in Section 27 (1). The Tribunal will give its consent to the Notice To Quit if:

- (1) if it does not appear to the Tribunal that a fair and reasonable landlord would not insist on possession
- (2) if it is satisfied as to one or more of the criteria below:
  - (a) the Landlord's purpose for the notice to quit is in the interests of good husbandry, treated as a separate unit.
  - (b) the Landlord's purpose for the notice to quit is in the interests of sound estate management, treated as part of the whole estate.
  - (c) the Landlord's purpose is desirable for agri research, education, experiment or demonstration, enactments relating to smallholdings.
  - (d) enactments relating to allotments
  - (e) greater hardship would be caused by withholding than by giving consent.
  - (f) non-agricultural use and not Case B (Schedule 3 Part 1)

Where the tenant is a serviceman within the meaning of Paragraph 1 of Schedule 5 of the Agricultural Holdings Act 1986, and the Notice to Quit is given for one or more of the reasons specified in Case B, D or E, the reasons for the giving of the Notice must be stated and, if any question arising out of them has been determined by arbitration, the determination should also be stated.



If you intend to rely on hardship to a person or persons other than yourself, you should set out in the 'reasons for application'; the name of every person who will be so affected, the relationship of that person to yourself, and the nature of the hardship on which you rely.

### **Notice to Quit (Application Form TA-05)**

Article 13(2) of the Agricultural Holdings (Arbitration on Notices) Order 1987 requires the tenant(s) at the same time to give written notice of the application to the landlord(s), except where the application is made at the hearing before the tribunal.

## Succession on Death (Application Form TA10)

Applications may be made to the Tribunal for a direction to succeed a deceased person's tenancy.

Section 34 of the Act limits this provision to tenancies granted **before 12<sup>th</sup> July 1984** and second succession cases granted under Section 39 or 53, e.g. on death or retirement of the existing tenant.

Legislation	Action	Deadline
Act, Section 39(1)	Application to the Tribunal by a close relative	3 months from the day after the date of death
Act, Section 41(2)	Application by a close relative to be treated as eligible for the purposes of Section 36-48	3 months from the date after the date of death
Rule 4	Reply to an application by another applicant (Form TA13)	1 month from the date of delivery of the application
Rule 4	Reply to an application by the Landlord (Form TA11)	1 month from the date of delivery of the application
Act, Schedule 3 Pt 1	Service of a Case G Notice to Quit	3 months from the date of receiving notice of the tenant's death
Rule 41 (1)	Application for Consent to Case G Notice to Quit, where there is only one applicant for succession	1 month from the expiry of the 3 month period for submitting applications for succession <b>or if later</b> 1 month from delivery of the application
Rule 41 (2)	Application for Consent to Case G Notice to Quit, where there is more than one applicant for succession	1 month from delivery of a notice that the number of applications for succession are reduce to one <b>or</b> any earlier date directed by the Chairman

Key: Agricultural Holdings Act 1986 – “Act”  
Agricultural Land Tribunals (Rules) Order 2007 – “Rule”

### Documents required to be submitted

- formal proof of the date of death

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- formal proof of the relationship to the deceased, e.g. by production of birth or marriage/civil partnership certificates
- tenancy agreement
- medical certificate for the applicant
- certified Farm Trading Accounts for 5 consecutive years from the previous 7 years

Section 36(1) provides that any eligible person as defined by the Act has the right to apply for a direction from the Tribunal.

An applicant must be a surviving close relative of the deceased. Section 35(2) of the Act defines a close relative to be either the wife, husband, civil partner, brother, sister, child or anyone treated as a child by the deceased.

If you received a specific bequest of the deceased's tenancy under his or her Will or you are specifically named in the Will as the person whom the deceased tenant wished to succeed him or her as tenant of the holding.

It will be necessary for a Grant of Probate or Administration to be obtained from the Family Division of the High Court in respect of the Will before the Tribunal can hear any claim to be a designated applicant. Where an applicant establishes that he or she is so designated under the deceased tenant's Will, no other application will be considered unless the Tribunal determine that the designated applicant is not eligible and suitable to become the tenant of the holding .

Where you were the step-child or foster child of the deceased tenant or were otherwise treated by him or her as his or her child.

An outline should be given of the circumstances relied on as establishing that you were treated by the deceased as his or her child in relation to the marriage/civil partnership. Production of the relevant marriage/civil partnership certificate and any relevant birth certificate will be required at the hearing unless the relevant facts are formally accepted by the respondent(s).

### Livelihood

To qualify under Section 36 (3) (a) you should have derived your only or principal source of livelihood from your agricultural work on the holding (or on a larger unit of which the holding forms part) during a total of five years of the seven years ending with the death of the deceased tenant. The total of five years may be made up of one continuous period, or one or more separate periods. A period of full-time education at a university, etc, may count towards the five year period of earning a livelihood from the holding.

Any applicant who is unsure of qualifying as eligible under the livelihood test can also apply under Section 41 of the Act to be 'treated as eligible' by the Tribunal. This allows the Tribunal the scope to accept an applicant as eligible if it is satisfied with regards to the livelihood test to a 'material extent'. The length of time you have lived on the holding, details of work done by you on the holding and any special circumstances which have prevented you from qualifying in full as an eligible person under paragraph (a) of the definition of "eligible person" should be given.

By virtue of Article 5 (2) of the Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006 SI No. 2805, agricultural work on the holding includes agricultural work carried out by the potential successor from the holding or an agricultural unit of which the holding forms part, and other work carried out by him or her on or from the holding or an agricultural unit of

which the holding forms part, of a description approved in writing by the landlord on or after 19 October 2006.

By virtue of paragraph 2 of Part 1 of Schedule 6 of the Act any period or periods (up to an aggregate total of three years) during the seven years ending with the date of death of the deceased tenant during which you were attending a full-time course at a university, college or other establishment of further education will be treated as a period throughout which your only or principle source of livelihood was derived from your agricultural work on the holding. Any subject may have been studied. You should state the name of university, college or other establishment of further education attended and the time spent in further education.

### Land

The applicant must not be the occupier of another separate commercial unit of agricultural land.

A Net Annual Income Assessment can be requested by the applicant, respondent or the Tribunal, to determine the net annual income of a unit of agricultural land. The statement of net annual income will be taken into account by the Tribunal when considering whether or not the potential successor is already in occupation of a commercial unit of agricultural land. Although such a statement will often assist the Tribunal, it does not bind the Tribunal.

Requests for a Net Annual Income Statement should be made to the Tribunal, who will then ask a specialist officer of the Welsh Government to carry out an inspection of the land and to prepare the statement. You will be contacted by the officer, who will arrange a suitable date and time to inspect all relevant land. All parties will be given the opportunity to attend the inspection. The Tribunal will send you and all other parties a copy of the statement.

### Joint Land

Land occupied by your spouse/civil partner or by a company controlled by your spouse/civil partner or jointly by your spouse/civil partner and yourself should not be included where either of the parties has obtained a decree of judicial separation or a decree nisi of divorce or of nullity of marriage/civil partnership and in each case that decree remains unrescinded.

In addition, land should not be included if it is occupied by you, your spouse/civil partner or such controlled company:

- under a tenancy approved under section 2(1) of the Agricultural Holdings Act 1986 or under a tenancy falling within Section 2(3)(a) of that Act.
- under a tenancy for more than one year but less than two years;
- under a tenancy not falling within (a) or (b) above and not having effect as a contract of tenancy;
- under a tenancy to which section 3 of the 1986 Act does not apply by virtue of section 5 of that Act;
- as a licensee; or
- as an executor, administrator, trustee in bankruptcy or person otherwise deriving title from another person by operation of law.

However, where you occupy land in accordance with any of bullet points above, under a licence or tenancy granted to you by your spouse/civil partner or by a body corporate controlled by you, that land should be included.

If you occupy land jointly with one or more other persons (not being only your spouse/civil partner or a company under your control or your spouse/civil partner or under their joint control), or if you are deemed to occupy land jointly with one or more such persons, you may in either case complete the section for the net annual income which the land is or was capable of producing to be treated as limited to your appropriate share.

### Suitable Person

If the Tribunal is satisfied with regards to the eligibility of the Applicant, then under Section 39(2) of the Act it is also responsible for determining if the applicant is a '**Suitable**' person to become the tenant of the holding. In determining suitability the Tribunal must consider the following:

- Section 39(8)(a)            Training and practical experience.
- Section 39(8)(b)        Age, physical health and financial standing.
- Section 39(8)(c)        Views of the Landlord as to suitability

All matters relied on as supporting the claim to be a suitable person to become the tenant of the holding should be summarised. These should include details of your training and practical experience of agriculture, physical health, financial standing and any educational qualifications not already listed

### Notifications

A form of notice (Form SOD-03) for this purpose can be obtained from the Tribunal.

### Succession on Death (Application Form TA-08)

If you intend to rely on hardship to a person or persons other than yourself, you should set out the name of every person who will be so affected and the relationship of that person to yourself, and should state the nature of the hardship on which you rely.

## Succession on Retirement (Application Form TA-14)

A tenant (or tenants) wishing to retire may nominate a successor in a notice served on the landlord. It is then open to the nominated successor to apply to the Tribunal for a direction. If the successor does not obtain a Tribunal direction he cannot make another application for succession when the tenant dies.

Section 49 (1) A tenant may serve a notice on the landlord, stating his intention to retire from the tenancy and nominate a person to succeed the tenancy from him. The tenant must give a date for retiring of 12 months from the end of the current year's tenancy, but not more than 2 years from the date of the notice.

Section 34 of the Act limits this provision to tenancies granted **before 12<sup>th</sup> July 1984** and second succession cases granted under Section 39 or 53, e.g. on death or retirement of the existing tenant.

Applications may be made to the Tribunal for a direction to succeed a person's tenancy when they retire.

### Documents required to be submitted

- birth certificate of the applicant
- birth certificate of the retiring tenant
- tenancy agreement
- medical certificate for the applicant