

**Amendment to the Agricultural Holdings Act 1969
Summary of Responses to the Consultation**

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1. Publishing the Consultation

The Agriculture Directorate published the consultation on behalf of the Department on 6th August 2018 with an initial closing date of 4th September 2018. To ensure a greater representation of responses were received and to provide greater clarity on the functionality of the 2008 Act, the closing date was extended to 15th October 2018.

2. Background

In recognition of concerns from the industry, particularly landlords and new entrants seeking access to land, the Department undertook a consultation to seek the views of the industry on putting a 'sunset clause' in the Agricultural Holdings Act 1969 to remove it over time, in favour of the Agricultural Tenancies Act 2008. The consultation focused on the nature and length of transition as these were identified as key factors in facilitating change, whilst providing stability and a clear transitional arrangement for the industry.

3. Summary of Responses

Overall there were 68 respondents to the consultation that provided a name and/or email address.

a. Interest of respondents

Question 6 of the consultation asked for the interest of the respondents, and the responses have been summarised in the table below. As respondents could fulfil more than one category the number is greater than the total individual respondents.

Category	Number	%
A tenant under the Agricultural Holdings Act 1969	30	44%
A tenant under the Agricultural Tenancies Act 2008	11	16%
A landlord under the Agricultural Holdings Act 1969	9	13%
A landlord under the Agricultural Tenancies Act 2008	6	9%
Other (please state in comments box)	24	35%
Not Answered	7	10%

The general overview of the respondents is as follows:

- The majority of respondents were tenants under the 1969 Act.
- Landlords were the least represented.
- The 'other' category included a wide range of comments including 'family members', members of the public and owner-occupier as well as farm business tenancy and young farmer. The 'other' comments are detailed in Appendix 1 for Question 6 (the respondents who requested their responses not to be published have been removed).

b. Views on amending the 1969 Act

Question 7 of the consultation asked – “Do you agree or disagree with the proposal to amend the Agricultural Holdings Act 1969 to make it time bound?” The responses have been summarised in the table below. The responses roughly corresponded with the respondent’s category in relation to tenant or landlord, but were complicated by those who had interests in more than one category. The overall predominant response was disagreement with the consultation proposal.

Category	Number	%
Agree with the proposal to amend the 1969 Act	17	25%
Disagree with the proposal to amend the 1969 Act	44	65%
Other (please state in comments box below)	5	7%
Not Answered	2	3%

c. Mechanism of amending the 1969 Act

Question 8 of the consultation asked – “If it was made time bound, how would you define the endpoint?” The responses have been summarised in the table below. Due to the low number of respondents in favour of amending the 1969 Act, the number of respondents stating a preference for the mechanism of introducing a sunset clause was also low, with 43% not answering the question. Of those answering the question, a pre-defined number of years was preferred to a defined number of successions. The ‘other’ responses are detailed in Appendix 2 for Question 8 (the respondents who requested their responses not to be published have been removed).

Most respondents reiterated a desire for ‘no change’. Other respondents suggested other mechanisms such as retirement of the tenant, for example, immediate removal of the 1969 Act, amendment to the 2008 Act to allow flexibility of tenancies and for tenancies to be agreed between landlords and tenants.

Category	Number	%
It would cease after a pre-defined number of years	15	22%
It would cease after a pre-defined number of successions	6	9%
Other (please state in comments box)	18	26%
Not Answered	29	43%

d. Preferred number of years of ‘sunset’ clause

Question 9 of the consultation asked – “If it was made time bound to cease after a number of years, how long would the notice period be?” The responses have been summarised in the graph below. Respondents were able to rank the response categories in order of preference (1-5). The results show the number of respondents who ranked that particular category as their 1st or 2nd preference.

The number of respondents to this question was low, reflecting the low number of respondents who supported the proposed amendment to the 69 Act. Numbers were too low to further analyse any correlations in respondents.

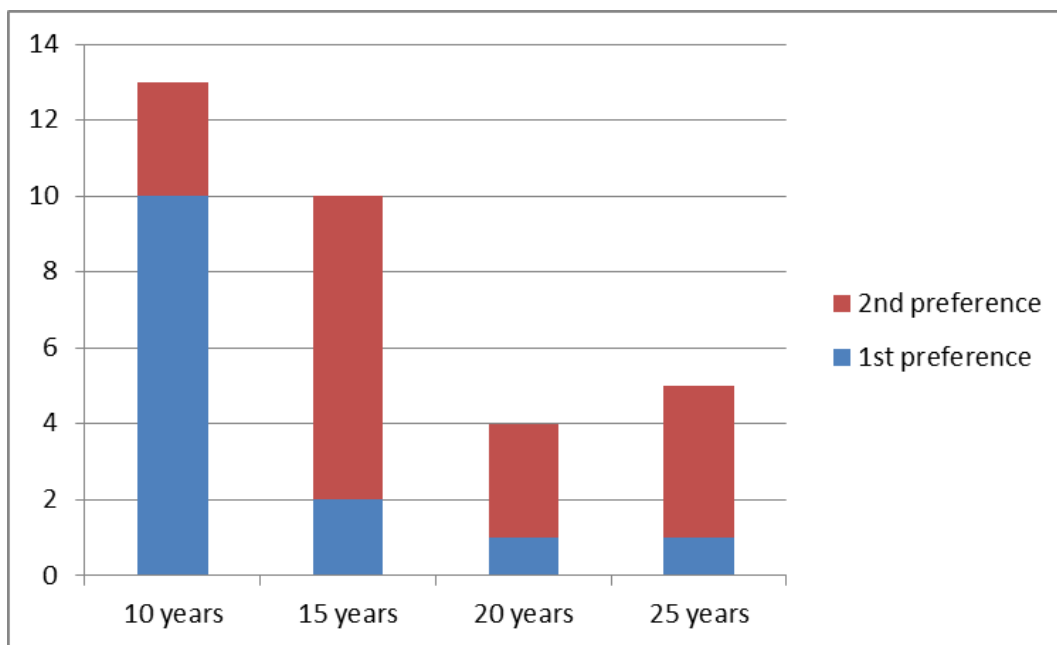


Figure 1: First and second preference votes for time-frame to introduce a 'sunset clause' into the 1969 Agricultural Holdings Act

e. Preferred number of generations after which automatic succession should cease

Question 10 of the consultation asked – “If it was made time bound, should it cease during the current generation or the next?” The responses have been summarised in the table below.

The number of respondents to this question was low, again reflecting the low number of respondents who supported the proposed amendment to the 69 Act.

Category	Number	%
Withdraw the right to automatic succession with the amendment	13	19%
The automatic right to succession to cease following the next succession after the amendment is approved	5	7%
Other (please state in comments box)	12	18%
Not Answered	38	56%

4. Summary

The majority of respondents were tenants, so they were generally not in favour of introducing a sunset clause in the 1969 Act. There was a consensus amongst tenants that this would reduce

their security of tenure. There were a substantial number of responses that felt the 2008 Act was not suitably flexible to allow for long-term tenancies to be agreed.

The main group in favour of introducing a sunset clause was landlords. Not surprisingly respondents in favour of change opted for the quickest transition offered (10 years).

However, a significant part of the resistance to introducing a sunset clause is related to a belief that the 2008 Act does not provide adequate security of tenure. Some statements around the inflexibility of the 2008 Act and a belief that only 5 year tenancies can be arranged shows some basic misunderstanding of the 2008 Act.

5. Conclusions

The consultation process did not deliver suitable clarity on a preferred mechanism for introducing a sunset clause into the 1969 Agricultural Holdings Act. However, it did highlight a strong resistance to change from tenants on the basis that there is inadequate security of tenure in the 2008 Agricultural Tenancy Act. There appears to be a fundamental misunderstanding of the flexibility of the 2008 Act which may be preventing more widespread acceptance of it as a replacement for the 1969 Act.

6. Next steps

1. Gather FAQ's on the 2008 Agricultural Tenancy Act and provide interpretation on the scope of the legislation for security of tenure and land mobility. Consider the requirements of sitting tenants, landlords and potential new/young farmers.
2. Conduct a further consultation on the actual versus perceived effectiveness of the 2008 Act for land mobility and security of tenure.
3. If the consultation identifies deficiencies in the 2008 Act identifies bring forward amendments to it.
4. Launch a further consultation on the 69 Act.

7. Time-scale

The next steps are to be completed before the end of 2019. The timescale has been set to account for potential disruption to DEFA work programs caused by Brexit developments over the next year.

Appendix 1 – Further detailed responses

Question 6 – Type of tenancies (additional information provided under 'other')

Response ID	Answer
ANON-AX4Y-AE47-Q	xxx lets 720 acres on the 1200 acre xxx in xxx under the 1969 Act to a company with expiry 2028 AND 700 acres on the 800 acre xxx under the 2008 Act to an individual with expiry 2039.
ANON-AX4Y-AE41-H	Owner/occupier
ANON-AX4Y-AE42-J	Interested resident
ANON-AX4Y-AEMN-7	Tenant under private agreement
ANON-AX4Y-AENU-F	Farm Business Tenancy.
ANON-AX4Y-AEME-X	Daughter of tenant under the 1969 Act
ANON-AX4Y-AEMK-4	Land owner as well
ANON-AX4Y-AECB-H	Farm business tenancy. Various other agreements as in annual, three yearly with just basic agreements which seem to work as we do have 14 landlords in total.
ANON-AX4Y-AE88-V	in transition
ANON-AX4Y-AE8P-M	none of the above
ANON-AX4Y-AE8M-H	The Government are not supporting the native farming community, this is the backbone of the Isle of Man. I feel there is no coherent plan for future farming on the Isle of Man. The last agricultural minister said "There are 400 too many farmers on the Isle of Man", this looks like one way to get rid of some of them! The government should concentrate on toxic free food and banning the use of Glyphosate. Going organic would be the way forward. Health personnel in England call the Isle of Man the "Cancer Isle", I want it to called the organic Isle"
ANON-AX4Y-AE8W-U	I am currently farming in partnership with my father. My father farmed with his his father who was the original tenant. I am planning to farm with my sons and if the tenancy act changes then we will have to give up farming. The government should be helping farming families not working against them!
ANON-AX4Y-AE6H-A	Cleared land recently for agricultural purposes
ANON-AX4Y-AE6B-4	Former long standing tenant under 1969 tenancy
ANON-AX4Y-AE6Z-V	Other - may include tenants/landlords who have no formal agreements in place. Our membership includes ALL of the above
ANON-AX4Y-AE61-K	Concerned about retaining the current volume of milk intake at the Creamery to ensure critical mass if tenant farmers were to be disadvantaged. It may affect a third of current dairy producers.
ANON-AX4Y-AE6X-T	An organisation
ANON-AX4Y-AE64-P	A young-farmer with the potential to continue the family farming business.
ANON-AX4Y-AE69-U	a Young-farmer with the potential to be involved in our family farming business.
ANON-AX4Y-AE6Y-U	Our membership includes all of the above.

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ANON-AX4Y-AEFJ-V	I write with reference to the above consultation and would advise that the Department has at least one agricultural holding under the 1969 Act and is therefore supportive of the introduction of a sunset clause being added into the Act.
ANON-AX4Y-AEFB-M	Owner occupier

Appendix 2 – Further detailed responses

Question 8 – Mechanism for amending the 1969 Act

Response ID	Answer
ANON-AX4Y-AE47-Q	<p>Our 1969 tenant is a company, as so many Statutory Tenants could claim to be in the absence of a formal lease, and successions are therefore inappropriate. Farmers need to have business plans and business plans need to have known periods.</p> <p>In some circumstances it could be brutal to evict a tenant at the end date of his tenancy, if indeed there is an end, where he has always thought he and his family were there forever but Social Services now have provision for these situations unlike in 1936 when the legislation was enacted.</p> <p>Agriculture should be considered as an industry not a way of life especially where public funds are used to subsidise that way of life.</p>
ANON-AX4Y-AE41-H	The original act never meant it to be successional
ANON-AX4Y-AENU-F	It should end immediately.
ANON-AX4Y-AEME-X	It should not be made time bound
ANON-AX4Y-AEMK-4	It hasn't been operating correctly there was no succession in the 69 act in my opinion copied from U.K. by the land court
ANON-AX4Y-AECB-H	<p>It would depend on who would pre-define the term that it would cease after so many years or after how many successions? Between the tenant and landlord or is this Government?</p> <p>It should be between the tenant and Landlord to agree this as it would depend on what has or is happening on the land (capital expenditure by either party would make a huge difference)</p>
ANON-AX4Y-AE8Z-X	N/A
ANON-AX4Y-AE82-P	<p>AGREED BETWEEN TENANT & LANDLORD.</p> <p>IN MY OPINION THE LOSS OF SECURITY OF TENURE IS A BACKWARD STEP AND SHOULD NOT BE TAKEN LIGHTLY OR AT ALL!!</p> <p>I DO NOT FEEL ANY OF THE SUGGESTIONS YOU VOICE HERE WILL MAKE THE IMPROVEMENTS EXPECTED</p>
ANON-AX4Y-AE8M-H	Stay as it is!

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ANON-AX4Y-AE8W-U	It shouldn't change
ANON-AX4Y-AE6B-4	This is simple and clear and if the period was 5-10 years it allows a return on investment or a period to secure a reasonable 2008 tenancy. It must not allow any further succession as tenants will immediately transfer rights to a successor.
ANON-AX4Y-AE6Z-V	<p>In the "Introduction" the Department gives 3 options:</p> <p>a) To cease after a number of years</p> <p>b) To cease following the next succession after the amendment is approved or</p> <p>c) To withdraw the right to automatic succession with the amendment.</p> <p>Option b) is contrary to the options given under Question 8 "It would cease after a pre-defined number of successions" and implies that there is only the one option.</p> <p>The consultation also implies that there is no break clause, in fact there are a number of provisions in Section 4 (8) of the Agricultural Holdings Act 1969 and in particular:</p> <p>"(8) Notwithstanding the provisions of paragraph (f) of subsection (7) of this section if, following the service of notice to quit, the personal representative of the deceased tenant or statutory tenant applies to the Land Court for the grant of the tenancy to the surviving spouse of civil partner or any child or grandchild of the deceased tenant or statutory tenant, the land court may grant such tenancy provided the Court are satisfied that the prospective tenant is capable of carrying on the holdings without detriment to the land."</p>
ANON-AX4Y-AE61-K	We believe that more flexibility on length of tenancy should be incorporated into the 2008 Act, along with an arbitration process as per the 1969 Act eg Land Court.
ANON-AX4Y-AE6X-T	opposed to change of the 69 act
ANON-AX4Y-AE6Y-U	We disagree with the proposal to amend the Agricultural Holdings Act 1969 to make it time bound.
ANON-AX4Y-AEFS-5	Don't agree with time bound proposal

ANON-AX4Y-AEF3-5	Leave it as it is.
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