



# Agricultural Holdings (Scotland) Act 2003

## 2003 asp 11

### PART 4

#### COMPENSATION UNDER AGRICULTURAL TENANCIES

### CHAPTER 2

#### COMPENSATION FOR DISTURBANCE AND DIVERSIFICATION ETC.

*[<sup>F1</sup>New types of tenancy]*

#### Textual Amendments

- F1** S. 52 cross-heading substituted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(18\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch.

## 52 Compensation for disturbance

(1) Where—

- (a) any land is resumed under section 17; or
- (b) a short limited duration tenancy [<sup>F2</sup>, a limited duration tenancy or a modern limited duration tenancy] terminates by notice under subsection (3) of that section,

compensation for disturbance is payable by the landlord to the tenant.

(2) Subsections (3) to (6) of section 43 (compensation for disturbance) of the 1991 Act apply in relation to compensation payable under subsection (1) above as they do in relation to compensation payable under that section, but as if—

- (a) in those subsections, the references to the holding were references to the land;
- (b) in subsection (6)—
  - (i) the reference to the tenant of an agricultural holding were a reference to the tenant of the short limited duration tenancy [<sup>F3</sup>, limited duration tenancy or modern limited duration tenancy]; and

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- (ii) the reference to a notice to quit given by the landlord were a reference to the termination of the tenancy; and
- (c) where the resumption under section 17 is of part of the land—
  - (i) the references to the land in those subsections of section 43 of that Act by virtue of paragraph (a) of this subsection were references to that part; and
  - (ii) the references to the rent in subsection (4)(a) and (b) of that section were references to the rent proportionate to the part.
- (3) Where the tenancy terminates as mentioned in subsection (1)(b) and—
  - (a) the part of the land affected by the notice under subsection (2) of section 17, together with any part of the land resumed following a previous such notice is—
    - (i) less than a quarter of the original area of the land comprised in the lease constituting the tenancy; or
    - (ii) of a rental value less than a quarter of the rental value of that area of land; and
  - (b) the remainder of the land is reasonably capable of being farmed separately, compensation is payable under subsection (1) only in respect of the part of the land to which the notice relates.
- (4) In a case mentioned in subsection (2)(c), in determining the amount of compensation payable, account is to be taken of any benefit or relief allowed to the tenant under the lease in respect of the part resumed.
- (5) Where compensation is payable under subsection (1)(a), in addition to that compensation, compensation is payable by the landlord to the tenant of an amount equal to the additional benefit (if any) which would have accrued to the tenant if the land (instead of being resumed on the date of resumption) had been resumed on the expiry of the period of 12 months from the end of the year of tenancy current at the date 2 months before the date of resumption.

#### Textual Amendments

- F2** Words in s. 52(1)(b) substituted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(19\)\(a\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch.
- F3** Words in s. 52(2)(b)(i) substituted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(19\)\(b\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch.

#### Commencement Information

- I1** S. 52 in force at 27.11.2003 by [S.S.I. 2003/548](#), [art. 2\(d\)](#) (with Sch.)

## 53 Compensation for other particular things

- (1) Section 44 (compensation for continuous adoption of special standard of farming) of the 1991 Act applies to short limited duration tenancies<sup>[F4]</sup>, limited duration tenancies and modern limited duration tenancies] as it does to 1991 Act tenancies, but as if—
  - (a) the references to the holding were references to the land;
  - (b) in subsection (2) of that section, the reference to a record of fixed equipment were a reference to fixed equipment specified under section 16 <sup>[F5]</sup>or 16A] of this Act; the reference to the date of the record were a reference to the date

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- on which the equipment was so specified; and the words from “or” to the end were omitted; and
- (c) in subsection (3) of that section, the reference to Part IV of that Act were a reference to section 45(1) of this Act.
- (2) Section 45A (compensation arising as a result of diversification etc.) of that Act, as read with subsection (1) of section 47 of that Act, applies to limited duration tenancies [<sup>F6</sup>and to modern limited duration tenancies] as it does to 1991 Act tenancies, but as if the references to the holding were references to the land.
- (3) Section 52 (compensation for damage by game) of that Act applies to short limited duration tenancies [<sup>F7</sup>, limited duration tenancies and modern limited duration tenancies] as it does to 1991 Act tenancies.

#### Textual Amendments

- F4** Words in s. 53(1) substituted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(20\)\(a\)\(i\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch.
- F5** Words in s. 53(1)(b) inserted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(20\)\(a\)\(ii\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch.
- F6** Words in s. 53(2) inserted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(20\)\(b\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch.
- F7** Words in s. 53(3) substituted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(20\)\(c\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch.

#### Commencement Information

- I2** S. 53 in force at 27.11.2003 by [S.S.I. 2003/548](#), [art. 2\(d\)](#) (with Sch.)

**Changes to legislation:**

Agricultural Holdings (Scotland) Act 2003, Cross Heading: New types of tenancy is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7C inserted by [2016 asp 18 s. 93\(2\)](#)
- s. 7D inserted by [2016 asp 18 s. 106\(2\)](#)
- s. 8F8G inserted by [2016 asp 18 s. 94\(2\)](#)
- s. 16B inserted by [2016 asp 18 s. 95\(2\)](#)
- s. 17A inserted by [2016 asp 18 s. 96\(2\)](#)
- s. 18B inserted by [2016 asp 18 s. 97\(2\)](#)
- s. 26(1)(1A) substituted for s. 26(1) by [2016 asp 18 s. 99\(4\)\(a\)](#)
- s. 26(3) inserted by [2016 asp 18 s. 99\(4\)\(c\)](#)