



Agricultural Holdings (Scotland) Act 1991

1991 CHAPTER 55

PART VI

ADDITIONAL PAYMENTS

54 Additional payments to tenants quitting holdings.

- (1) Where compensation for disturbance in respect of an agricultural holding or part of such a holding becomes payable—
 - (a) to a tenant, under this Act; or
 - (b) to a statutory small tenant, under section 13 of the 1931 Act;subject to this Part of this Act, there shall be payable by the landlord to the tenant, in addition to the compensation, a sum to assist in the reorganisation of the tenant's affairs of the amount referred to in subsection (2) below.
- (2) The sum payable under subsection (1) above shall be equal to 4 times the annual rent of the holding or, in the case of part of a holding, 4 times the appropriate portion of that rent, at the rate at which the rent was payable immediately before the termination of the tenancy.

55 Provisions supplementary to s. 54.

- (1) Subject to subsection (2) below no sum shall be payable under section 54 of this Act in consequence of the termination of the tenancy of an agricultural holding or part of such a holding by virtue of a notice to quit where—
 - (a) the notice contains a statement that the carrying out of the purpose for which the landlord proposes to terminate the tenancy is desirable on any grounds referred to in section 24(1)(a) to (c) of this Act and, if an application for consent in respect of the notice is made to the Land Court in pursuance of section 22(1) of this Act, the Court consent to its operation and state in the reasons for their decision that they are satisfied that termination of the tenancy is desirable on that ground;

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- (b) the notice contains a statement that the landlord will suffer hardship unless the notice has effect and, if an application for consent in respect of the notice is made to the Land Court in pursuance of section 22(1) of this Act, the Court consent to its operation and state in the reasons for their decision that they are satisfied that greater hardship would be caused by withholding consent than by giving it;
 - ^{F1}(c)
 - (d) section 22(1) of this Act does not apply to the notice by virtue of section 29(4) of the ^{M1}Agriculture Act 1967 (which relates to notices to quit given by the Secretary of State or a Rural Development Board with a view to boundary adjustments or an amalgamation).
- (2) Subsection (1) above shall not apply in relation to a notice to quit where—
- (a) the reasons given by the Land Court for their decision to consent to the operation of the notice include the reason that they are satisfied as to the matter referred to in section 24(1)(e) of this Act; or
 - (b) the reasons so given include the reason that the Court are satisfied as to the matter referred to in section 24(1)(b) of this Act ^{F2}...; but the Court state in their decision that they would have been satisfied also as to the matter referred to in section 24(1)(e) of this Act if it had been specified in the application for consent.
- (3) In assessing the compensation payable to the tenant of an agricultural holding in consequence of the compulsory acquisition of his interest in the holding or part of it or the compulsory taking of possession of the holding or part of it, no account shall be taken of any benefit which might accrue to the tenant by virtue of section 54 of this Act.
- (4) Any sum payable in pursuance of section 54 of this Act shall be so payable notwithstanding any agreement to the contrary.
- (5) The following provisions of this Act shall apply to sums claimed or payable in pursuance of section 54 of this Act as they apply to compensation claimed or payable under section 43 of this Act—
- sections 43(6);
 - section 50;
 - section 74;
- (6) No sum shall be payable in pursuance of section 54 of this Act in consequence of the termination of the tenancy of an agricultural holding or part of such a holding [^{F3}under section 12B] where—
- ^{F4}(a)
 - (b) the landlord is terminating the tenancy for the purpose of using the land for agriculture only; and
 - (c) the [^{F5}counter-notice under section 12B(2)] contains a statement that the tenancy is being terminated for the said purpose.
- (7) If any question arises between the landlord and the tenant as to the purpose for which a tenancy is being terminated, [^{F6}it shall be determined by the Land Court].
- (8) In this section—
- (a) references to section 54 of this Act do not include references to it as applied by section 56 of this Act; and

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- (b) for the purposes of subsection (1)(a) above, the reference in section 24(1)(c) of this Act to the purposes of the enactments relating to allotments shall be ignored.

Textual Amendments

- F1** S. 55(1)(c) repealed (23.12.2016) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 15(4)(a)** (with s. 128); S.S.I. 2016/365, reg. 2, sch. (with regs. 5-8)
- F2** Words in s. 55(2)(b) repealed (23.12.2016) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 15(4)(b)** (with s. 128); S.S.I. 2016/365, reg. 2, sch. (with regs. 5-8)
- F3** Words in s. 55(6) substituted (23.12.2016) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 15(4)(c)(i)** (with s. 128); S.S.I. 2016/365, reg. 2, sch. (with regs. 5-8)
- F4** S. 55(6)(a) repealed (23.12.2016) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 15(4)(c)(ii)** (with s. 128); S.S.I. 2016/365, reg. 2, sch. (with regs. 5-8)
- F5** Words in s. 55(6)(c) substituted (23.12.2016) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 15(4)(c)(iii)** (with s. 128); S.S.I. 2016/365, reg. 2, sch. (with regs. 5-8)
- F6** Words in s. 55(7) substituted (27.11.2003) by virtue of Agricultural Holdings (Scotland) Act 2003 (asp 11), s. 95(3)(4), **Sch. para. 33** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with Sch.)

Marginal Citations

- M1** 1967 c. 22.

56 Additional payments in consequence of compulsory acquisition etc. of agricultural holdings.

- (1) This section applies where, in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily, any person (referred to in this section and in sections 57 and 58 of and Schedule 8 to this Act as “an acquiring authority”) acquires the interest of the tenant in, or takes possession of, an agricultural holding or any part of an agricultural holding or the holding of a statutory small tenant.
- (2) Subject to subsection (3) below and sections 57 and 58 of this Act, where this section applies section 54 of this Act shall apply as if the acquiring authority were the landlord of the holding and compensation for disturbance in respect of the holding or part in question had become payable to the tenant on the date of the acquisition or taking of possession.
- (3) No compensation shall be payable by virtue of this section in respect of an agricultural holding held under a tenancy for a term of 2 years or more unless the amount of such compensation is less than the aggregate of the amounts which would have been payable by virtue of this section if the tenancy had been from year to year: and in such a case the amount of compensation payable by virtue of this section shall (subject to section 57(4) of this Act) be equal to the difference.

57 Provisions supplementary to s. 56.

- (1) For the purposes of section 56 of this Act, a tenant of an agricultural holding shall be deemed not to be a tenant of it in so far as, immediately before the acquiring of the interest or taking of possession referred to in that section, he was neither in possession, nor entitled to take possession, of any land comprised in the holding: and in determining, for those purposes, whether a tenant was so entitled, any lease relating

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to the land of a kind referred to in section 2(1) of this Act which has not taken effect as a lease of the land from year to year shall be ignored.

- (2) Section 56(1) of this Act shall not apply—
- (a) where the acquiring authority require the land comprised in the holding or part in question for the purposes of agricultural research or experiment or of demonstrating agricultural methods or for the purposes of the enactments relating to small holdings;
 - (b) where the Secretary of State acquires the land under section 57(1)(c) or 64 of the ^{M2}Agricultural (Scotland) Act 1948.
- (3) Where an acquiring authority exercise, in relation to any land, power to acquire or take possession of land compulsorily which is conferred on the authority by virtue of [^{F7}section 189 of the Town and Country Planning (Scotland) Act 1997] or section 7 of the ^{M3}New Towns (Scotland) Act 1968, the authority shall be deemed for the purposes of subsection (2) above not to require the land for any of the purposes mentioned in that subsection.
- (4) Schedule 8 to this Act shall have effect in relation to payments under section 56 of this Act.

Textual Amendments

F7 Words in s. 57(3) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 51**.

Marginal Citations

M2 1948 c. 45.

M3 1968 c. 16.

58 Effect of early resumption clauses on compensation.

- (1) Where—
- (a) the landlord of an agricultural holding resumes land under a provision in the lease entitling him to resume land for building, planting, feuing or other purposes (not being agricultural purposes); or
 - (b) the landlord of the holding of a statutory small tenant resumes the holding or part thereof on being authorised to do so by the Land Court under section 32(15) of the 1911 Act; and
 - (c) in either case, the tenant has not elected that section 55(2) of the ^{M4}Land Compensation (Scotland) Act 1973 (right to opt for notice of entry compensation) should apply to the notice;
- compensation shall be payable by the landlord to the tenant (in addition to any other compensation so payable apart from this subsection) in respect of the land.
- (2) The amount of compensation payable under subsection (1) above shall be equal to the value of the additional benefit (if any) which would have accrued to the tenant if the land had, instead of being resumed at the date of resumption, been resumed at the expiry of 12 months from the end of the current year of the tenancy.
- (3) Section 55(4) and (5) of this Act shall apply to compensation claimed or payable under subsection (1) above with the substitution for references to section 54 of this Act of references to this section.

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- (4) In the assessment of the compensation payable by an acquiring authority to a statutory small tenant in the circumstances referred to in section 56(1) of this Act, any authorisation of resumption of the holding or part thereof by the Land Court under section 32(15) of the 1911 Act for any purpose (not being an agricultural purpose) specified therein shall—
- (a) in the case of an acquisition, be treated as if it became operative only on the expiry of 12 months from the end of the year of the tenancy current when notice to treat in respect of the acquisition was served or treated as served on the tenant; and
 - (b) in the case of a taking of possession, be disregarded;
- unless compensation assessed in accordance with paragraph (a) or (b) above would be less than would be payable but for this subsection.
- (5) For the purposes of subsection (1) above, the current year of a tenancy for a term of 2 years or more is the year beginning with such day in the period of 12 months ending with a date 2 months before the resumption mentioned in that subsection as corresponds to the day on which the term would expire by the effluxion of time.

Marginal Citations

M4 1973 c. 56.

59 Interpretation etc. of Part VI.

In sections 54 to 58 of and Schedule 8 to this Act—

“acquiring authority” has the meaning assigned to it by section 56(1) of this Act;

“statutory small tenant” and “holding” in relation to a statutory small tenant have the meanings given in section 32(1) of the 1911 Act; and

references to the acquisition of any property are references to the vesting of the property in the person acquiring it.

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