



Agriculture (Scotland) Act 1948

1948 CHAPTER 45

PART I

AGRICULTURAL HOLDINGS.

Compensation to tenant for improvements and to landlord for deterioration.

1 Provisions as to payment of compensation for improvements.

- (1) Any agreement made after the commencement of this Part of this Act by an incoming tenant of a holding with his landlord to pay to an outgoing tenant any compensation payable by the landlord under or in pursuance of this Act in respect of improvements or to refund to his landlord any compensation payable as aforesaid which has been paid by the landlord to the outgoing tenant shall be null and void:

Provided that an incoming tenant may enter into an agreement in writing with his landlord to pay to an outgoing tenant, or to refund to his landlord up to such maximum amount as may be specified in the agreement, any compensation payable by the landlord under or in pursuance of this Act in respect of the whole or part of any improvement included in Part III of the First Schedule to the Agricultural Holdings (Scotland) Act, 1923 (hereafter in this Act referred to as the Act of 1923 ").

- (2) Where an incoming tenant has in pursuance of such an agreement in writing as aforesaid paid to an outgoing tenant or refunded to his landlord any compensation in respect of the whole or part of any improvement, he shall be entitled on quitting the holding to claim compensation in respect of the improvement or part in like manner, if at all, as the outgoing tenant would have been entitled if he had remained tenant of the holding and quitted it at the time at which the incoming tenant quite it.
- (3) Where, in a case not falling within the foregoing subsections, an incoming tenant of a holding has paid to his landlord any amount in respect of the whole or part of any improvement, he shall, subject to any agreement in writing between the landlord and the tenant, be entitled on quitting the holding to claim compensation in respect of the improvement or part in like manner, if at all, as he would have been entitled if he had

been tenant of the holding at the time when the improvement was carried out and the improvement or part had been carried out by him.

- (4) The foregoing provisions of this section shall have effect in substitution for the provisions of section seven of the Act of 1923.

2 Compensation to tenant for improvements.

- (1) The First Schedule to this Act shall be substituted for the First Schedule to the Act of 1923.
- (2) The Secretary of State may, after consultation with persons appearing to him to represent the interests of landlords and tenants of agricultural holdings, by order vary the provisions of the First Schedule to the Act of 1923, and an order under this section may make such provision as to the operation of that Act and of this Part of this Act and the said Schedule in relation to tenancies current when the order takes effect as appears to the Secretary of State to be just having regard to the variation of the said Schedule effected by the order:

Provided that nothing in any order made under this subsection shall affect the right of a tenant to claim, in respect of an improvement made or begun before the date on which such order takes effect, any compensation to which, but for the making of the order, he would have been entitled.

An order under this subsection shall be embodied in a statutory instrument which shall be of no effect unless approved by resolution of each House of Parliament.

- (3) The last foregoing subsection shall apply in relation to the Third Schedule to the Act of 1923 as it applies in relation to the First Schedule to the said Act.

3 Assessment of compensation where grant "received by tenant".

Where any grant out of moneys provided by Parliament has been or will be made to the tenant of a holding in respect of an improvement specified in the First Schedule to the Act of 1923, the grant shall be taken into account in assessing compensation under that Act for the improvement.

4 Compensation to landlord for deterioration of holding.

- (1) The landlord of a holding shall be entitled to recover from the tenant of the holding, on the tenant's quitting the holding on the termination of the tenancy, compensation in respect of any dilapidation or deterioration of, or damage to, any part of the holding, or anything in or on the holding, caused by non-fulfilment by the tenant of his responsibilities to farm in accordance with the rules of good husbandry:

Provided that compensation shall not be recoverable under this subsection unless the landlord has, not later than three months before the termination of the tenancy, given notice in writing to the tenant of his intention to claim compensation thereunder.

- (2) The amount of the compensation payable under the last foregoing subsection shall be the cost, as at the date of the tenant's quitting the holding, of making good the dilapidation, deterioration or damage.
- (3) Notwithstanding anything in section nine of this Act, the landlord may, in lieu of claiming compensation under subsection (1) of this section, claim compensation in

respect of matters specified therein under and in accordance with a lease in writing, so however that—

- (a) compensation shall be so claimed only on the tenant's quitting the holding on the termination of the tenancy;
- (b) compensation shall not be claimed in respect of any one holding both under such a lease and under the said subsection (1).

- (4) Where, on the quitting of a Holding by a tenant thereof on the termination of the tenancy, the landlord shows that the value of the holding generally has been reduced, whether by reason of any such dilapidation, deterioration or damage as is mentioned in subsection (1) of this section or otherwise by nonfulfilment by the tenant of his responsibilities to farm in accordance with the rules of good husbandry, the landlord shall be entitled to recover from the tenant compensation therefor, in so far as the landlord is not compensated therefor under subsection (1) or in accordance with subsection (3) of this section, of an amount equal to the decrease attributable thereto in the value of the holding:

Provided that compensation shall not be recoverable under this subsection unless the landlord has, not later than three months before the termination of the tenancy, given notice in writing to the tenant of his intention to claim compensation thereunder.

- (5) Where a tenant has remained in his holding during two or more tenancies, his landlord shall not be deprived of his right to compensation under this section in respect of any dilapidation, deterioration or damage by reason only that the tenancy during which an act or omission occurred which in whole or in part caused the dilapidation, deterioration or damage was a tenancy other than the tenancy at the termination of which the tenant quits the holding.

- (6) Compensation shall not be recoverable—

- (a) under subsection (1) or subsection (4) of this section in any case where the lease was entered into after the thirty-first day of July, nineteen hundred and thirty-one, or
- (b) under and in accordance with any lease entered into after the commencement of this Part of this Act,

unless during the occupancy of the tenant a record of the condition of the holding has been made under the Act of 1923 or under this Part of this Act, or in respect of any matter arising before the date of the record so made, or, where more than one such record has been made during his occupancy, before the date of the first such record:

Provided that if the landlord and the tenant enter into an agreement in writing in that behalf, a record of the condition of the holding shall, notwithstanding that it was made during the occupancy of a previous tenant, be deemed, for the purposes of this subsection, to have been made during the occupancy of the tenant and on such date as may be specified in the agreement and shall have effect subject to such modifications (if any) as may be so specified.

- (7) Section ten of the Act of 1923 (which provides for compensation to the landlord for deterioration of a holding) shall cease to have effect.