



# Agriculture (Scotland) Act 1948

## 1948 CHAPTER 45

### PART VII

#### GENERAL.

##### *Minor Arterial Drainage.*

#### 74 Amendment of 3 and 4 Geo. 6. c. 14. s. 29.

- (1) Section twenty-nine of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which provides that the Secretary of State may, on consideration of a report from the appropriate Agricultural Executive Committee, take steps to secure the cleansing of the channels of water courses or the carrying out of other measures for preventing damage by flooding in any case where the cost of the operations would not exceed an amount equal to five pounds for each acre of agricultural land benefited by the operations) shall have effect subject to the following amendments, that is to say—
- (a) in subsection (1) the words " on consideration of a report from the Agricultural Executive Committee for any area in Scotland ", the words " in the area of that Committee " and the words "in the area of the Committee " shall cease to have effect;
  - (b) in paragraph (c) of subsection (1), for the words " five pounds " there shall be substituted the words " ten pounds "; and
  - (c) in subsection (10) the words from " and the expression " to the end of the subsection shall be omitted.
- (2) There shall be paid out of moneys provided by Parliament any increase attributable to the passing of this section in the expense authorised by subsection (9) of the said section twenty-nine to be defrayed out of moneys so provided.

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*Provision of Goods and Services.*

**75 Schemes for provision of agricultural goods and services.**

- (1) For the purpose of promoting efficiency in agriculture or facilitating food production, the Secretary of State may with the approval of the Treasury make schemes for providing goods and services to persons managing or farming agricultural land.

Any scheme under this section shall be embodied in a statutory instrument which shall be laid before Parliament after being made.

- (2) A scheme under this section shall not authorise the provision of goods after the expiration of five years from the first day of October, nineteen hundred and forty-seven or such longer period as may be prescribed.
- (3) The Secretary of State may make such reasonable charges, if any, as he thinks fit in respect of goods and services provided in pursuance of a scheme under this section.
- (4) The Secretary of State may acquire by agreement any land which he requires for the purposes of a scheme under this section.
- (5) Section one hundred and three of the Agriculture Act, 1947, shall, in so far as it applies to Scotland, cease to have effect, and anything done by the Secretary of State or any scheme made under that section shall be deemed to have been done or made under this section.

**76 Provision of machinery for agricultural drainage works.**

Without prejudice to any powers competent to him under the last foregoing section, the Secretary of State may at the request of and by agreement with the owner or the occupier of any agricultural land carry out agricultural drainage works by means of mechanical excavators or otherwise as may be agreed, and may recover from such owner or occupier the cost of carrying out the works.

**77 Grants towards provision of houses to for landholders and cottars in Highlands and Islands.**

- (1) The Secretary of State may provide 'assistance by way of grants towards the erection or improvement or rebuilding of dwelling-houses and other buildings for landholders and cottars in the Highlands and Islands.
- (2) The powers of the Secretary of State under this section shall be exercised in accordance with arrangements made by him with the approval of the Treasury
- (3) Regulations shall be made by the Secretary of State—
- (a) for securing that where a grant has been made towards the erection, improvement or rebuilding of a house or other building, conditions with respect to the occupation and maintenance thereof shall apply thereto for such period from the completion of the work (not being longer than forty years) as may be specified in the regulations;
  - (b) for securing that in the event of a breach of any of the conditions the Secretary of State may recover from such person as may be specified in the regulations a sum bearing the same proportion to the grant made as the period between the date of the breach of the condition and the expiration of the period specified

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- under paragraph (a) of this subsection bears to the last-mentioned period, together with interest on such sum from the date on which the grant was made at such rate as may be specified in the regulations;
- (c) for providing that the conditions applied by the regulations to a house or building shall cease to apply on payment to the Secretary of State by such person as may be specified in the regulations of such amount as may be so specified;
  - (d) for applying, subject to any necessary modifications, in relation to a house or building towards the erection, improvement or rebuilding of which a grant has been made under this section, the provisions of section seven of the Housing (Agricultural Population) (Scotland) Act, 1938 (which restricts the compensation payable in respect of improvements, and prohibits increases in the rents of houses, in respect of which assistance has been granted under Part II of that Act);
  - (e) for such other incidental and supplementary matters as appear to the Secretary of State to be requisite or expedient for the purposes aforesaid.
- (4) No assistance by way of grant shall be given under this section towards the erection, improvement or rebuilding of any house in respect of which assistance under section four of the Housing (Agricultural Population) (Scotland) Act, 1938, has been given.
- (5) In this section the expressions "landholder" and "cottar" have the like meanings as in the Small Landholders (Scotland) Acts, 1886 to 1931, and the expression "Highlands and Islands" has the like meaning as in the Housing (Agricultural Population) (Scotland) Act, 1938.

**78 Extension of time for applying for assistance under s. 4 of the Housing (Agricultural Population) (Scotland) Act, 1938.**

- (1) Subsection (3) of section four of the Housing (Agricultural Population) (Scotland) Act, 1938 (which, as amended by the Housing (Agricultural Population) (Scotland) Act, 1943, provides among other things that applications for assistance in the replacement of unsatisfactory houses must be made within ten years after the passing of the said Act of 1938) shall have effect as if for the words "ten years" there were substituted the words "fifteen years."
- (2) Subject to the provisions of any amending scheme made after the commencement of this section by a local authority with the approval of the Secretary of State, so much of any scheme in force at the commencement of this section under section four of the said Act of 1938 as specifies the date before which applications for assistance must be received by the local authority shall have effect subject to such modifications as may be required to give effect to the foregoing provisions of this section.
- (3) No assistance shall be given under section four of the said Act of 1938 in respect of any house in respect of which a grant has been made under the last foregoing section of this Act.
- (4) Any increase attributable to the provisions of this section in the sums payable out of moneys provided by Parliament by virtue of sections eight and nine of the said Act of 1938 shall be defrayed out of moneys so provided.
- (5) Subsection (2) of section one of the Housing (Agricultural Population) (Scotland) Act, 1943, shall cease to have effect.

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(6) This section shall come into operation on the passing of this Act.

*Provision as to congested districts.*

**79 Amendment of 60 and 61 Vict. c. 53.**

For the purposes of the Congested Districts (Scotland) Act, 1897, the landward parts of the parishes specified in the Seventh Schedule to this Act shall be deemed to be congested districts, and the provisions of that Act shall have effect accordingly.

*Supplementary.*

**80 Provisions as to representations.**

- (1) Any enactment in this Act providing, in relation to the taking of any action by the Secretary of State, for his taking the action after affording to a person an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, shall be construed as a provision that the Secretary of State shall comply with the following requirements.
- (2) The Secretary of State shall give notice to the said person specifying the action proposed to be taken and informing him of the effect of the three following subsections.
- (3) If within the prescribed time and in the prescribed manner the said person makes representations to the Secretary of State in writing, the Secretary of State shall not take the action in question until he has considered the representations.
- (4) If, whether or not representations are made to the Secretary of State in writing, the said person within the prescribed time and in the prescribed manner requires that an opportunity be afforded to him of being heard by a person appointed by the Secretary of State for the purpose, such an opportunity shall be afforded to him and, on the same occasion, to any other person to whom under the enactment referred to in subsection (1) of this section the Secretary of State is required to afford such an opportunity, and the Secretary of State shall not take the action in question until he has considered any representations made at the hearing.
- (5) No officer or servant of an Agricultural Executive Committee or of any sub-committee thereof shall be appointed under the last foregoing subsection to receive representations relating to land in the area of the Committee.

**81 Expenses and receipts.**

- (1) All expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.
- (2) All sums received by the Secretary of State under this Act, including sums received on his behalf by any person or body of persons exercising functions on behalf of the Secretary of State, shall be paid into the Exchequer.

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## **82 Provisions as to entry and inspection.**

- (1) Any person authorised by the Secretary of State in that behalf shall have power at all reasonable times to enter on and inspect any land for the purpose of determining whether, and if so in what manner, any of the powers conferred on the Secretary of State by this Act are to be exercised in relation to the land, or whether, and if so in what manner, any direction given under any such power has been complied with.
- (2) Any person authorised by the Secretary of State who proposes to exercise any power of entry or inspection conferred by this Act shall if so required produce some duly authenticated document showing his authority to exercise the power.
- (3) Admission to any land shall not be demanded as of right in the exercise of any such power as aforesaid—
  - (a) if the power is being exercised for determining whether the land is to be acquired under Part IV or Part V of this Act, or
  - (b) if the land is being used for residential purposes,unless twenty-four hours notice of the intended entry has been given to the occupier of the land.
- (4) Save as provided by the last foregoing subsection, admission to any land shall not be demanded as of right in the exercise of any such power as aforesaid, other than the power conferred by paragraph (a) of subsection (1) of section twenty-seven of this Act, unless notice has been given to the occupier of the land that it is proposed to enter during a period, specified in the notice, not exceeding fourteen days and beginning at least twenty-four hours after the giving of the notice, and the entry is made on the land during the period specified in the notice:

Provided that where the power of entry is being exercised for the purpose of taking measures to secure compliance with a direction or requirement under the provisions of section, twenty-nine or of section thirty-five or of Part III of this Act, and notice is given in accordance with this subsection on the first occasion on which the power is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with the taking of the measures.

- (5) Where notice is served in a case falling within the proviso to the last foregoing subsection, and- the person to whom the direction therein referred to was given, or on whom the requirement therein referred to was imposed, is not the occupier of the land, a like notice shall be served on that person.
- (6) Any notice served in pursuance of the last foregoing subsection or the proviso therein referred to may be served in like manner as the notice giving the said direction or imposing the said requirement.
- (7) Any person who, in any case for which no penalty is provided by the foregoing provisions of this Act, obstructs any person authorised by the Secretary of State exercising any such power as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any. subsequent offence.

## **83 Service of notices.**

- (1) Any notice or other document required or authorised by or under this Act to be given to or served on any person shall be duly given or served if it is delivered to him, or left at his proper address, or sent to him by post in a registered letter.

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- (2) Any such document required or authorised to be given to or served on an incorporated company or body shall be duly given or served if given to or served on the secretary or clerk of the company or body.
- (3) For the purposes of this section and of section twenty-six of the Interpretation Act, 1889, the proper address of any person to or on whom any such document as aforesaid is to be given or served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person in question.
- (4) Where any document is to be given to or served on a person as being the person having any interest in land, and it is not practicable after reasonable inquiry to ascertain his name or address, the document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it), and delivering the document to some responsible person on the land or by affixing it, or a copy of it, to some conspicuous object on the land.

#### **84 Nomination of arbiter in cases to which the Secretary of State is a party.**

Where the Secretary of State is a party to any question or difference which under the Agricultural Holdings (Scotland) Acts, 1923 and 1931, or this Act, is to be determined by arbitration under the Act of 1923 or by an arbiter appointed in accordance with the provisions of that Act, the arbiter shall in lieu of being nominated by the Secretary of State be nominated by the Land Court, and the remuneration of the arbiter so nominated shall be such amount as may be fixed by the Land Court.

#### **85 Regulations and orders.**

- (1) Any regulations made by the Secretary of State under this Act shall be embodied in a statutory instrument which shall be subject to annulment in pursuance of resolution of either House of Parliament.
- (2) In this Act the expression " prescribed " means prescribed by regulations made by the Secretary of State.
- (3) Any power conferred by this Act to make an order shall include a power, exercisable in the like manner and subject to the like conditions, to revoke or vary the order.

#### **86 Interpretation.**

- (1) In this Act the expression " agricultural land " means land used for agriculture which is so used for the purposes of a trade or business, or which is designated by the Secretary of State for the purposes of this subsection, and includes any land so designated as land which in the opinion of the Secretary of State ought to be brought into use for agriculture:

Provided that no designation under this subsection shall extend—

- (a) to land used as pleasure grounds, private gardens or allotment gardens, or
- (b) to land kept or preserved mainly or exclusively for the purposes of sport or recreation, except where the Secretary of State is satisfied that its use for agriculture would not be inconsistent with its use for the said purposes and it is so stated in the designation.

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(2) In this Act the expression " agricultural unit " means land which is occupied as a unit for agricultural purposes, including—

- (a) any dwelling-house or other building occupied by the same person for the purpose of farming the land, and
- (b) any other land falling within the definition in this Act of the expression " agricultural land " which is in the occupation of the same person, being land as to which the Secretary of State is satisfied that having regard to the character and situation thereof and other relevant circumstances it ought in the interests of full and efficient production to be farmed in conjunction with the agricultural unit, and directs accordingly:

Provided that the Secretary of State shall not give a direction under this subsection as respects any land if it is for the time being in use for any purpose which appears to him to be substantial having regard to the use to which it might be put for agriculture.

(3) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

" the Act of 1923 " means the Agricultural Holdings (Scotland) Act, 1923;

" agriculture " includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and " agricultural " shall be construed accordingly;

" allotment garden " means an allotment not exceeding forty poles in extent which is wholly or mainly cultivated by the occupier for the production of vegetables or fruit for consumption by himself or his family;

" fixed equipment " includes any building or structure affixed to land and any works on, in, over or under land, and also includes anything grown on land for a purpose other than use after severance from the land, consumption of the thing grown or of produce thereof, or amenity, and, without prejudice to the foregoing generality, includes the following things, that is to say—

- (a) all permanent buildings, including farm houses and farm cottages, necessary for the proper conduct of the holding;
- (b) all permanent fences, including hedges, stone dykes, gate posts and gates;
- (c) all ditches, open drains and tile drains, conduits and culverts, ponds, sluices, flood banks and main water courses;
- (d) stells, fanks, folds, dippers, pens and bughts necessary for the proper conduct of the holding;
- (e) farm access or service roads, bridges and fords;
- (f) water and sewerage systems;
- (g) electrical installations including generating plant, fixed motors, wiring systems, switches and plug sockets;
- (h) shelter belts;

and references to fixed equipment on land shall be construed accordingly.

" functions " includes powers and duties;

" livestock " includes any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land;

" pasture " includes meadow;

" prescribed " has the meaning assigned to it by the last foregoing section;

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" produce " includes anything (whether live or dead) produced in the course of agriculture;

" relevant circumstances," in relation to an owner or an occupier, includes all circumstances affecting management or farming, other than the personal circumstances of the owner or the occupier.

- (4) References in this Act to any enactment shall be construed, except where, the context otherwise requires, as references to that enactment as amended by or under any other enactment, including this Act.
- (5) References in this Act to the farming of land include references to the carrying on in relation to the land of any agricultural activity; and in, relation to any agricultural activity the person having the right to carry it on shall be deemed to be the occupier of the land.
- (6) References in this Act to the use of land for agriculture include, in relation to land forming part of an agricultural unit, references to any use of the land in connection with the farming of the unit.

#### **87 Repeals.**

The enactments specified in the Tenth Schedule to this Act are, save as provided in Part I of this Act, hereby repealed to the extent specified in the third column of that Schedule.

#### **88 Short title, commencement and extent.**

- (1) This Act may be cited as the Agriculture (Scotland) Act, 1948.
- (2) Save as otherwise expressly provided this Act shall come into operation on such date as His Majesty may by Order in Council appoint; and an Order under this subsection may appoint different dates in relation to different provisions of this Act.
- (3) This Act shall extend to Scotland only.