

Draft Order laid before the Scottish Parliament under section 73(4) of the Agricultural Holdings (Scotland) Act 1991 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

LANDLORD AND TENANT

**The Agricultural Holdings (Scotland) Act
1991 (Variation of Schedule 5) Order 2019**

Made - - - - 2019
Coming into force - - 2019

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 73(1) and (2) of the Agricultural Holdings (Scotland) Act 1991⁽¹⁾ and all other powers enabling them to do so.

The Scottish Ministers have consulted with persons appearing to them to represent the interests of landlords and tenants of agricultural holdings, as required by section 73(1) of that Act. In accordance with section 73(2) of that Act, they have made such provision in relation to tenancies current when this instrument takes effect as appears to them to be just having regard to the variation effected by the instrument.

In accordance with section 73(4) of that Act⁽²⁾, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Agricultural Holdings (Scotland) Act 1991 (Variation of Schedule 5) Order 2019 and comes into force on the day after the day on which it is made.

(2) In this Order, “1991 Act” means the Agricultural Holdings (Scotland) Act 1991.

Variation of Part II of schedule 5 of the 1991 Act

2.—(1) Part II of schedule 5 of the 1991 Act (improvements for which notice is required) is varied in accordance with paragraphs (2) to (4).

(2) For paragraph 17, substitute—

(1) [1991 c.55](#). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c.46\)](#).
(2) Section 73(4) of the Agricultural Holdings (Scotland) Act 1991 has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act [2010 \(asp 10\)](#).

“17. Installation, provision, distribution or storage of electricity, gas, power, heat or light.”.

(3) For paragraph 22, substitute—

“22. Provision of means of sewage, waste or pollutant disposal, or provision of means of managing water on land.”.

(4) After paragraph 23, insert—

“23A. Erection of structures for the management or storage of slurries or manures.

23B. Provision of means of storing silage.

23C. Works to dwellings.”.

Variation of Part III of schedule 5 of the 1991 Act

3.—(1) Part III of schedule 5 of the 1991 Act (improvements for which no consent or notice is required) is varied in accordance with paragraphs (2) to (4).

(2) For paragraph 29, substitute—

“29. Eradication of bracken, whins or broom growing on the holding at the commencement of the tenancy.”.

(3) After paragraph 29, insert—

“29A. Removal of tree roots, boulders, stones or other similar obstacles to cultivation from arable land or from permanent grass land.”.

(4) For paragraph 30, substitute—

“30. Application to land of soil improvers, conditioners, digestates, manure or fertiliser, whether organic or inorganic.”.

Saving provision

4. The variations made by articles 2 and 3 have no effect in relation to an improvement begun prior to the coming into force of this Order.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

The Agricultural Holdings (Scotland) Act 1991 (“1991 Act”) and the Agricultural Holdings (Scotland) Act 2003 (“2003 Act”) allow for tenants of agricultural holdings to claim compensation for improvements they make to their holding during their tenancy. This right is available to tenants on quitting the holding, at the termination of the tenancy.

Compensation for improvements to land which is part of a tenancy formed under the 1991 Act (“1991 Act tenancies”) may be claimed under section 34 of the 1991 Act, and compensation for improvements to land which is part of a short limited duration tenancy, limited duration tenancy and modern limited duration tenancy may be claimed under section 45 of the 2003 Act.

This Order varies Parts II and III of schedule 5 of the 1991 Act. Schedule 5 of the 1991 Act lists the types of improvements that tenants of 1991 Act tenancies, short limited duration tenancies, limited duration tenancies and modern limited duration tenancies may claim compensation for. These changes update schedule 5 of the 1991 Act in accordance with modern farming practices.

The variations made to schedule 5 are not applicable to improvements that were begun before the coming into force of this Order.