



Agriculture (Miscellaneous Provisions) Act 1968

1968 CHAPTER 34

PART III

TERMINATION OF TENANCIES OF AGRICULTURAL HOLDINGS IN SCOTLAND ACQUIRED BY SUCCESSION

18 Termination in case of near relatives of deceased tenant

- (1) Section 6(3) of the Agriculture Act 1958 shall not apply to a notice to quit given to a tenant who has acquired right to the lease of an agricultural holding—
 - (a) by virtue of section 16 of the Succession (Scotland) Act 1964, or
 - (b) as a legatee by virtue of section 20 of the principal Scottish Act,where he is a near relative of the deceased tenant from whom he has acquired right to that lease; and accordingly section 25(1) of the principal Scottish Act shall, subject to the provisions of this section, apply to such a notice. ,
- (2) Notwithstanding section 26(1) of the principal Scottish Act (which provides for the Scottish Land Court consenting to the operation of a notice to quit in certain circumstances), where the said section 6(3) would apart from the provisions of this section apply to the notice, the Scottish Land Court shall consent under the said section 25(1) to the operation of a notice to quit given to such a near relative as is mentioned in the foregoing subsection—
 - (a) if they are satisfied that the near relative has neither sufficient training in agriculture nor sufficient experience in the farming of land to enable him to farm the holding to which the notice relates with reasonable efficiency, and if the notice contains a statement that it is given by reason of the matter aforesaid, or
 - (b) if they are satisfied—
 - (i) that the holding to which the notice relates, or where the holding forms only part of an agricultural unit, that unit, is not an agricultural unit which in the opinion of the Court is capable of providing full-time

employment for an individual occupying it and for at least one other man,

- (ii) that the notice is given in order to enable the landlord to use the holding for the purpose of effecting an amalgamation, and
- (iii) that the amalgamation is proposed to be carried out within two years after the date of the termination of the tenancy specified in the notice, and if the notice contains a statement that it is given in order to enable the landlord to use the holding for the purpose of effecting an amalgamation and specifies the land with which the holding is to be amalgamated, or
- (c) if they are satisfied that the near relative is the occupier (either as owner or tenant) of agricultural land other than the holding to which the notice relates, or, where the holding forms only part of an agricultural unit, other than that unit, being agricultural land, which—
 - (i) has been occupied by him since a date prior to the death of the deceased tenant from whom he has acquired right to the lease of the said holding, and
 - (ii) is an agricultural unit which in the opinion of the Court is capable of providing full-time employment for an individual occupying it and for at least one other man,

and if the notice contains a statement that it is given by reason of the matter aforesaid and specifies the land:

Provided that, notwithstanding that they are satisfied as aforesaid, the Court shall withhold consent to the operation of the notice if in all the circumstances it appears to them that a fair and reasonable landlord would not insist on possession.

- (3) For the purposes of paragraphs (b)(i) and (c)(ii) of the last foregoing subsection, in assessing the capability of the unit of providing employment, it shall be assumed that the unit is farmed under reasonably skilled management, that a system of husbandry suitable for the district is followed and that the greater part of the feeding stuffs required by any livestock kept on the unit is grown there.
- (4) The Court in giving consent to the operation of a notice to quit under the said section 25(1) as applied by this section on the grounds mentioned in subsection (2)(b) of this section shall impose such conditions as appear to them requisite for securing—
 - (a) that the holding to which the notice relates will be used for the purpose of effecting an amalgamation with the land specified in the notice ; and
 - (b) that the amalgamation will take place within two years after the date of the termination of the tenancy of the holding by reason of the notice ;
 and section 26(5) of the principal Scottish Act shall not apply to such a consent.
- (5) Section 30 of the principal Scottish Act shall, with any necessary modifications, apply to a condition imposed under this section as it applies to a condition imposed under section 26 of that Act.
- (6) This section shall apply to any notice to quit given to such a near relative after the passing of this Act.
- (7) In this section, " near relative " in relation to a deceased tenant of an agricultural holding means a surviving spouse, son or daughter, or adopted son or daughter, of that tenant.
- (8) In the last foregoing subsection, the reference to an adopted son or daughter of a deceased tenant shall be construed as a reference to a son or daughter adopted by him

(whether alone or jointly with any other person) in pursuance of an adoption order within the meaning of section 23(5) of the Succession (Scotland) Act 1964.

19 Transitional provisions for purposes of Part III

(1) In the case of a notice to quit given by a landlord in pursuance of section 6(3) of the Agriculture Act 1958 to the tenant of an agricultural holding who is such a near relative of a deceased tenant as is mentioned in subsection (1) of the last foregoing section, being a notice given between 26th January 1968 and the passing of this Act so as to have effect after the passing of this Act, the said section 6(3) shall not apply and section 25(1) of the principal Scottish Act shall, subject to the following provisions of this section, apply.

(2) In the case of such a notice to quit as is mentioned in the foregoing subsection, the landlord may, within one month of the passing of this Act, notify the tenant in writing that the said section 6(3) no longer applies to the notice to quit but that, in the event of the tenant serving a notice on him under the next following subsection, he will apply for the consent of the Scottish Land Court to the operation of the notice to quit on one or more of the following grounds, being a ground or grounds specified in the notification—

- (a) the matter mentioned in section 18 (2) (a) of this Act;
- (b) that possession of the holding is required for the purpose of effecting an amalgamation with land specified in the notification;
- (c) the matter mentioned in section 18(2)(c) of this Act;
- (d) one or more of the matters set out in section 26(1) of the principal Scottish Act:

Provided that, if the landlord has not notified the tenant under this subsection within the said month, the tenant shall be deemed to have served a counter-notice under the said section 25(1), and the period of one month referred to in section 27(1) of the principal Scottish Act shall be deemed to have expired.

(3) The tenant may, within one month of being notified in accordance with the last foregoing subsection, serve a notice on the landlord requiring that the said section 25(1) shall apply to the notice to quit, and such a notice shall be deemed to be a counter-notice served under the said section 25(1) within the period mentioned therein.

(4) Notwithstanding section 26(1) of the principal Scottish Act, the Scottish Land Court shall consent under the said section 25(1) to the operation of such a notice to quit as is referred to in subsection (1) of this section if they are satisfied with regard to—

- (a) the matter mentioned in paragraph (d), or
- (b) the matters mentioned in paragraph (b) (i) to (iii), or
- (c) the matter mentioned in paragraph (c), of subsection (2) of the last foregoing section :

Provided that, notwithstanding that they are satisfied as aforesaid, the Court shall withhold consent to the operation of the notice if in all the circumstances it appears to them that a fair and reasonable landlord would not insist on possession.

(5) Subsections (3) to (5) of section 18 of this Act shall apply to a consent given under the said section 25(1) as applied by this section on the grounds mentioned in subsection (4) (b) of this section, as they apply to a consent given under the said section 25(1) as applied by the said section 18.

20 Interpretation of Part III

(1) In this Part of this Act—

" amalgamation" means a transaction for securing that agricultural land which is comprised in a holding to which a notice to quit relates and which together with some other agricultural land could form an agricultural unit, shall be owned and occupied with that other land ; and

" the principal Scottish Act" means the Agricultural Holdings (Scotland) Act 1949.

(2) Unless the context otherwise requires, expressions used in this Part of this Act and the principal Scottish Act have the same meanings in this Part of this Act as in that Act.