



# Land Compensation (Scotland) Act 1973

## 1973 CHAPTER 56

### PART IV

#### COMPULSORY PURCHASE

##### *Assessment of compensation*

#### **44 Compensation in respect of agricultural holdings.**

- (1) This section has effect where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority—
- (a) acquire the interest of the landlord in an agricultural holding or any part of it; or
  - (b) acquire the interest of the tenant in, or take possession of, an agricultural holding or any part of it.
- (2) In assessing the compensation payable by the acquiring authority to the landlord in connection with any such acquisition of an interest as is mentioned in subsection (1) (a) above—
- (a) there shall be disregarded any right of the landlord to serve a notice to quit, and any notice to quit already served by the landlord, which would not be or would not have been effective if—
    - (i) in [F<sup>1</sup>section 22(2)(b) of the Agricultural Holdings (Scotland) Act 1991] (land required for non-agricultural use for which planning permission has been granted etc.) the reference to the land being required did not include a reference to its being required by an acquiring authority; and
    - (ii) in [F<sup>2</sup>section 24(1)(e)] of that Act (proposed termination of tenancy for purpose of land's being used for non-agricultural use not falling within [F<sup>3</sup>section 22(2)(b)]) the reference to the land's being used did not include a reference to its being used by an acquiring authority; and
  - [F<sup>4</sup>(aa) there shall be disregarded any right of the landlord to serve a notice of intention to resume land which would not be or have been effective if in

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*Changes to legislation:* There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Section 44. (See end of Document for details)

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- section 17(1)(a) of the [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#) (resumption of land by landlord) the reference to the resumption being for a non-agricultural purpose did not include a reference to its being required by an acquiring authority; and]
- (b) there shall be disregarded any entitlement of the landlord to resume land comprised in the holding by virtue of a stipulation in the lease, and any notice already given in pursuance of such a stipulation which would not be or would not have been effective if the stipulation were construed as not including authority to resume the land for the purpose of its being required by the acquiring authority; and
  - (c) if the tenant has quitted the holding or any part of it by reason of a notice to quit which is to be so disregarded, it shall be assumed that he has not done so; and
  - (d) if land comprised in the holding has been resumed by reason of such an entitlement or notice which is to be so disregarded that land shall be assumed not to have been so resumed.
- (3) In assessing the compensation payable by the acquiring authority to the tenant in connection with any such acquisition of an interest or taking of possession of land as is mentioned in subsection (1)(b) above (hereafter referred to as “the tenant’s compensation”), there shall be disregarded—
- (a) any right of the landlord to serve a notice to quit, and any notice to quit already served by the landlord, which would not be or would not have been effective if the said [<sup>F5</sup>sections 22(2)(b) and 24(1)(e)] [<sup>F6</sup>of the Agricultural Holdings (Scotland) Act 1991 or section 17(1)(a) of the Agricultural Holdings (Scotland) Act 2003] were construed in accordance with subsection (2)(a)(i) and (ii) above; and
  - (b) any entitlement of the landlord to resume land comprised in the holding by virtue of a stipulation in the lease, and any notice already given in pursuance of such a stipulation which would not be or would not have been effective if the stipulation were construed in accordance with subsection (2)(b) above.
- (4) The tenant’s compensation shall be reduced by an amount equal to any payment which the acquiring authority are liable to make to him, in respect of the acquisition or taking of possession in question, under [<sup>F7</sup>section 56 of the Agricultural Holdings (Scotland) Act 1991] (additional payments by acquiring authority in circumstances described in subsection (1)(b) above) [<sup>F8</sup>or, as the case may be, under section 54(1) to (3) of the Agricultural Holdings Act (Scotland) 2003 (compensation where compulsory acquisition of land)] .
- (5) If the tenant’s compensation as determined in accordance with subsections (3) and (4) above is less than it would have been if those subsections had not been enacted, it shall be increased by the amount of the deficiency.
- (6) This section shall not apply to an agricultural holding which is a croft or the holding of a landholder or a statutory small tenant.

#### Textual Amendments

- F1** Words in s. 44(2)(a)(i) substituted (25.09.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para. 34\(a\)](#) (with s. 45(3), [Sch. 12 para. 3](#)).
- F2** Words in s. 44(2)(a)(ii) substituted (25.09.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para. 34\(b\)\(i\)](#) (with s. 45(3), [Sch. 12 para. 3](#)).

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- F3** Words in s. 44(2)(a)(ii) substituted (25.09.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88(1), 89(2), **Sch. 11 para. 34(b)(ii)** (with s. 45(3), Sch. 12 para. 3).
- F4** S. 44(2)(aa) inserted (27.11.2003) by The Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 (S.S.I. 2003/583), art. 1, **sch. para. 8(b)(i)**
- F5** Words in s. 44(3)(a) substituted (25.09.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88(1), 89(2), **Sch. 11 para. 34(c)** (with s. 45(3), Sch. 12 para. 3).
- F6** Words in s. 44(3)(a) inserted (27.11.2003) by The Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 (S.S.I. 2003/583), art. 1, **sch. para. 8(b)(ii)**
- F7** Words in s. 44(4) substituted (25.09.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88(1), 89(2), **Sch. 11 para. 34(d)** (with s. 45(3), Sch. 12 para. 3).
- F8** Words in s. 44(4) inserted (27.11.2003) by The Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 (S.S.I. 2003/583), art. 1, **sch. para. 8(b)(iii)**

**Changes to legislation:**

There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Section 44.