



Agricultural Holdings (Scotland) Act 1991

1991 CHAPTER 55

PART V

OTHER PROVISIONS REGARDING COMPENSATION

Miscellaneous

43 Compensation for disturbance.

- (1) Where the tenancy of an agricultural holding terminates by reason of—
 - (a) a notice to quit given by the landlord; or
 - (b) a counter-notice given by the tenant under section 30 of this Act,and in consequence the tenant quits the holding, subject to subsections (2) to (8) below, compensation for the disturbance shall be payable by the landlord to the tenant.
- (2) Compensation shall not be payable under this section where the application of section 22(1) of this Act to the notice to quit is excluded by any of paragraphs (a) or (c) to (f) of subsection (2) of that section.
- (3) Subject to subsection (4) below, the amount of the compensation payable under this section shall be the amount of the loss or expense directly attributable to the quitting of the holding which is unavoidably incurred by the tenant upon or in connection with the sale or removal of his household goods, implements of husbandry, fixtures, farm produce or farm stock on or used in connection with the holding, and shall include any expenses reasonably incurred by him in the preparation of his claim for compensation (not being expenses [^{F1}arising from the determination of] any question arising under this section).
- (4) Where compensation is payable under this section—
 - (a) the compensation shall be an amount equal to one year's rent of the holding at the rate at which rent was payable immediately before the termination of the tenancy without proof by the tenant of any such loss or expense as aforesaid;
 - (b) the tenant shall not be entitled to claim any greater amount than one year's rent of the holding unless he has given to the landlord not less than one month's

*Changes to legislation: There are currently no known outstanding effects for the
 Agricultural Holdings (Scotland) Act 1991, Section 43. (See end of Document for details)*

notice of the sale of any such goods, implements, fixtures, produce or stock as aforesaid and has afforded him a reasonable opportunity of making a valuation thereof;

^{F2}(c)

- (5) In subsection (4) above “rent” means the rent after deduction of such an amount as, failing agreement, the [^{F3}Land Court determines as] the amount payable by the landlord in respect of the holding for the year in which the tenancy was terminated by way of any public rates, taxes or assessments or other public burdens, the charging of which on the landlord would entitle him to relief in respect of tax under Part II of the ^{M1}Income and Corporation Taxes Act 1988.
- (6) Where the tenant of an agricultural holding has lawfully sub-let the whole or part of the holding, and in consequence of a notice to quit given by his landlord becomes liable to pay compensation under this section to the sub-tenant, the tenant shall not be debarred from recovering compensation under this section by reason only that, owing to not being in occupation of the holding or part of the holding, on the termination of his tenancy he does not quit the holding or that part.
- (7) Where the tenancy of an agricultural holding terminates by virtue of a counter-notice given by the tenant under section 30 of this Act and—
- (a) the part of the holding affected by the notice to quit given by the landlord, together with any part of the holding affected by any previous notice to quit given by the landlord which is rendered valid by section 29 of this Act, is either less than a quarter of the area of the original holding or of a rental value less than one quarter of the rental value of the original holding, and
 - (b) the holding as proposed to be diminished is reasonably capable of being farmed as a separate holding,
- compensation shall not be payable under this section except in respect of the part of the holding to which the notice to quit relates.
- (8) Compensation under this section shall be in addition to any compensation to which the tenant may be entitled apart from this section.

Textual Amendments

- F1** Words in s. 43(3) substituted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), s. 95(3)(4), **Sch. para. 28(a)** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with Sch.)
- F2** S. 43(4)(c) repealed (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 50(1), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(d) (with Sch.)
- F3** Words in s. 43(5) substituted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), s. 95(3)(4), **Sch. para. 28(b)** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with Sch.)

Modifications etc. (not altering text)

- C1** S. 43 modified by 2003 asp 11, s. 38N(2)-(6) (as inserted (23.12.2016 for specified purposes) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 100(2), 130(1)** (with s. 128); S.S.I. 2016/365, reg. 2, sch.)
- C2** S. 43(3)-(6) applied (with modifications) (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 52(2), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(d) (with Sch.)

Marginal Citations

- M1** 1988 c. 1.

Changes to legislation:

There are currently no known outstanding effects for the Agricultural Holdings (Scotland) Act 1991, Section 43.