



Agricultural Holdings (Scotland) Act 1991

1991 CHAPTER 55

PART IX

SUPPLEMENTARY

Interpretation

85 Interpretation.

(1) In this Act, unless the context otherwise requires—

“the 1911 Act” means the ^{M1}Small Landholders (Scotland) Act 1911;

“the 1949 Act” means the ^{M2}Agricultural Holdings (Scotland) Act 1949;

“agricultural holding” (except in sections 68 to 72 of this Act) and “agricultural land” have the meanings assigned to them by section 1 of this Act;

“agricultural unit” means land which is an agricultural unit for the purposes of the ^{M3}Agriculture (Scotland) Act 1948;

“agriculture” includes horticulture, fruit growing; seed growing; dairy farming; 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;

“building” includes any part of a building;

[^{F1}“enactment” includes an Act of the Scottish Parliament or an instrument made under an Act of the Scottish Parliament;]

“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 agricultural holding;

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- (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;

“improvement” shall be construed in accordance with section 33 of this Act, and “new improvement”, “old improvement”, “1923 Act improvement” and “1931 Act improvement” have the meanings there assigned to them;

“Land Court” means the Scottish Land Court;

“Lands Tribunal” means the Lands Tribunal for Scotland;

“landlord” means any person for the time being entitled to receive the rents and profits or to take possession of an agricultural holding, and includes the executor, assignee, legatee, disponee, guardian, curator bonis [^{F2}or tutor of a landlord or the trustee or interim trustee in the sequestration of a landlord's estate;]

“lease” means a letting of land for a term of years, or for lives, or for lives and years, or from year to year;

“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;

“market garden” means a holding, cultivated, wholly or mainly, for the purpose of the trade or business of market gardening;

“prescribed” means prescribed by the Secretary of State by regulations made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;

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

“tenant” means the holder of land under a lease of an agricultural holding and includes the executor, assignee, legatee, disponee, guardian, tutor [^{F3}or curator bonis of a tenant or the trustee or interim trustee in the sequestration of a tenant's estate;]

“termination”, in relation to a tenancy, means the termination of the lease by reason of effluxion of time or from any other cause;

- (2) Schedules 5 and 6 to the ^{M4}Agriculture (Scotland) Act 1948, (which have effect respectively for the purpose of determining for the purposes of that Act whether the owner of agricultural land is fulfilling his responsibilities to manage it in accordance with the rules of good estate management and whether the occupier of such land is fulfilling his responsibilities to farm it in accordance with the rules of good husbandry) shall [^{F4}, subject to subsections (2A) and (2B) below,] have effect for the purposes of this Act as they have effect for the purposes of that Act.

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- [^{F5}(2A) For the purposes of this Act, conservation activities are to be treated as being in accordance with the rules of good husbandry if they are carried out in accordance with—
- (a) an agreement entered into under any enactment by the tenant; or
 - (b) the conditions of—
 - (i) any grant for the purpose of such activities paid out of the Scottish Consolidated Fund; or
 - (ii) such other grant of a public nature as may be prescribed.
- (2B) For the purposes of this Act, such use of the land or part of the land, or such change to the land, for a purpose that is not an agricultural purpose as has been permitted under section 40 or 41 of the Agricultural Holdings (Scotland) Act 2003 (asp 11) is to be treated as being in accordance with the rules of good husbandry.]
- (3) References in this Act to the farming of land include references to the carrying on in relation to the land of any agricultural activity.
- (4) References to the terms, conditions, or requirements of a lease of or of an agreement relating to, an agricultural holding shall be construed as including references to any obligations, conditions or liabilities implied by the custom of the country in respect of the holding.
- (5) Anything which by or under this Act is required or authorised to be done by, to or in respect of the landlord or the tenant of an agricultural holding may be done by, to or in respect of any agent of the landlord or of the tenant.

Textual Amendments

- F1** Words in s. 85 inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), s. 95(3)(4), **Sch. para. 42** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with Sch.)
- F2** Words in s. 85(1) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 8 para. 12(5)(a)** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F3** Words in s. 85(1) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 8 para. 12(5)(b)** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F4** Words in s. 85(2) inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 69(1), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(e) (with Sch.)
- F5** S. 85(2A)-(2B) inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 69(2), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(e) (with Sch.)

Marginal Citations

- M1** 1911 c. 49.
M2 1949 c. 75.
M3 1948 c. 45.
M4 1948 c. 45.

Changes to legislation:

There are currently no known outstanding effects for the Agricultural Holdings (Scotland) Act 1991, Section 85.