



# Agriculture (Scotland) Act 1948

## 1948 CHAPTER 45

### PART I

#### AGRICULTURAL HOLDINGS.

##### *General.*

#### **17 Restriction on letting agricultural land for less than from year to year.**

- (1) Subject to the provisions of this section, where under a lease entered into after the commencement of this Part of this Act any land is let to a person for use as agricultural land for a shorter period than from year to year, and the circumstances are such that if he were a tenant from year to year he would in respect of that land be the tenant of a holding as defined in the Act of 1923, then, unless the letting was approved by the Secretary of State before the lease was entered into, the lease shall take effect, with the necessary modifications, as if it were a lease of the land from year to year:

Provided that this subsection shall not have effect in relation to a lease of land, entered into (whether or not the lease expressly so provides) in contemplation of the use of the land only for grazing or mowing during some specified period of the year, or to a lease of land granted by a person whose interest in the land is that of a tenant under a lease which is for a shorter period than from year to year, and which has not by virtue of this section taken effect as a lease from year to year.

- (2) Any question arising as to the operation of the last foregoing subsection in relation to any lease shall be determined by arbitration.

#### **18 Power of tenant to obtain charge on holding in respect of compensation.**

- (1) Where after the commencement of this Part of this Act any sum has become payable to the tenant of a holding in respect of compensation by the landlord and the landlord has failed to discharge his liability therefor within the period of one month from the date on which the sum became payable, the Secretary of State may, on the application of the tenant and after giving not less than fourteen days' notice of his intention so to

do to the landlord, create, where the landlord is the absolute owner of the holding, a charge on the holding, or where the landlord is the lessee of the holding under a lease recorded under the Registration of Leases (Scotland) Act, 1857, a charge on the lease, for the payment of the sum due.

- (2) For the purpose of creating a charge under this section for the payment of any sum due, the Secretary of State may make in favour of the tenant a charging order charging and burdening the holding or the lease, as the case may be, with an annuity to repay the sum due together with the expenses of obtaining the charging order and recording it in the appropriate Register of Sasines; and the provisions of subsection (2) and subsections (4) to (10) of section fifty-five of the Water (Scotland) Act, 1946, shall with the following and any other necessary modifications apply to any such charging order—
- (a) for any reference to the local authority there shall be substituted a reference to the Secretary of State;
  - (b) for any reference to the period of thirty years there shall be substituted a reference to such period (not exceeding thirty years) as the Secretary of State may determine;
  - (c) for references to Part III of the said Act of 1946 there shall be substituted references to the Agricultural Holdings (Scotland) Acts, 1923 to 1948.
- (3) The creation of a charge on a holding or the lease of a holding under this section shall not be deemed to be a contravention of any prohibition against charging or burdening contained in the deed or instrument under which the holding is held.

## **19 Power of landlord to enter on holding.**

Without prejudice to the provisions of section thirty-two of the Act of 1923 (which confers on a landlord power to enter to view the state of a holding), the landlord of a holding or any person authorised by him may at all reasonable times enter on the holding for the purpose of fulfilling the landlord's responsibilities to manage the holding in accordance with the rules of good estate management, or for the purpose of providing, improving, replacing or renewing fixed equipment on the holding otherwise than in fulfilment of his said responsibilities.

## **20 Right of landlord to object to heir-at-law of tenant succeeding to holding.**

- (1) Within three months after the right to the lease of a holding devolves upon the heir-at-law of the tenant the landlord, if he objects to receive the heir-at-law as tenant under the lease, may make application to the Land Court for an order terminating the interest of the heir-at-law in the holding.
- (2) If on the hearing of such application any reasonable ground of objection is established to the satisfaction of the Land Court, they shall make an order terminating the interest of the heir-at-law in, and requiring him to give up his occupation of, the holding.
- (3) The termination of the interest of the heir-at-law under this section shall be treated, for the purposes of the provisions relating to compensation of the Agricultural Holdings (Scotland) Acts, 1923 to 1948, as the termination of his tenancy of the holding; but nothing in this section shall be construed as entitling him to any compensation for disturbance.
- (4) The Land Court may, on cause shown, direct that while proceedings are pending under this section the heir-at-law shall not have possession of the holding.

## **21 Provisions as to payment for implements etc. sold on quitting holding.**

- (1) Where a tenant has entered into an agreement, or it is a term of the lease of the holding, that the tenant will on quitting the holding sell to the landlord or to the incoming tenant any implements of husbandry, fixtures, farm produce or farm stock on or used in connection with the holding, it shall be deemed, notwithstanding anything in the agreement or in the lease of the holding to the contrary, to be a condition of the agreement or of the lease, as the case may be, that the property in the goods shall not pass to the buyer until the price is paid and that payment of the price shall be made within one month after the tenant has quitted the holding or, if the price of the goods is to be ascertained by a valuation, within one month after the delivery of the award in the valuation.
- (2) Where payment of the price is not made within one month as aforesaid the outgoing tenant shall be entitled to sell or remove the goods and to receive from the landlord or the incoming tenant, as the case may be, by whom the price was payable compensation of an amount equal to any loss or expense unavoidably incurred by the outgoing tenant upon or in connection with such sale or removal together with any expenses reasonably incurred by him in the preparation of his claim for compensation.
- (3) Any question arising as to the amount of compensation payable under the last foregoing subsection shall be determined by arbitration.

## **22 Provisions as to arbitration.**

- (1) Without prejudice to any other provision of this Act or of the Act of 1923, any claim of whatever nature by the tenant or the landlord of a holding against his landlord or his tenant, being a claim which arises—
  - (a) under the Agricultural Holdings (Scotland) Acts, 1923 and 1931, or this Act or any custom or agreement, and
  - (b) on or out of the termination of the tenancy of the holding or part thereof after the commencement of this Part of this Act,shall, subject to the provisions of this section, be determined by arbitration.
- (2) Without prejudice to any other provision of this Act or of the Act of 1923, no such claim as aforesaid shall be enforceable unless before the expiration of two months from the termination of the tenancy the claimant has served notice in writing on his landlord or his tenant, as the case may be, of his intention to make the claim.

A notice under this subsection shall specify the nature of the claim, and it shall be a sufficient specification thereof if the notice refers to the statutory provision, custom, or term of an agreement under which the claim is made.
- (3) The landlord and the tenant may within the period of four months from the termination of the tenancy by agreement in writing settle any such claim as aforesaid, and the Secretary of State may upon the application of the landlord or the tenant made within that period extend the said period by two months and, on a second such application made during those two months, by a further two months.
- (4) Where before the expiration of the said period and any extension thereof under the last foregoing subsection any such claim as aforesaid has not been settled, the claim shall cease to be enforceable unless before the expiration of one month from the end of the said period and any such extension, or within such longer time as the Secretary of State may in special circumstances allow, an arbiter has been appointed by agreement

between the landlord and the tenant under the provisions in that behalf of the Act of 1923, or an application for the nomination of an arbiter under those provisions has been made by the landlord or the tenant.

- (5) Where a tenant lawfully remains in occupation of part of a holding after the termination of a tenancy, references in subsections (2) and (3) of this section to the termination thereof shall be construed as references to the termination of the occupation.
- (6) Nothing in section forty-six of the Act of 1923 (which contains a general saving for the remedies of a landlord or tenant) shall be construed as limiting the generality of the provisions of subsection (1) of this section.
- (7) Subsection (1) of section six and subsection (2) of section fifteen of the Act of 1923 (which relate to the reference of matters to arbitration) shall cease to have effect; and in subsection (1) of the said section fifteen for the words from the beginning to " any other question or difference " there shall be substituted the words " Save as otherwise expressly provided in this Act, any question or difference ".

### **23 Revision of panel of arbiters.**

- (1) Section seventeen of the Act of 1923 (which provides for the constitution of a panel of arbiters) shall have effect as if at the end of subsection (1) there were added the following words—

“The panel of arbiters constituted under this subsection shall be subject to revision by the Lord President of the Court of Session, after such consultation as aforesaid, as soon as may be after the passing of the Agriculture (Scotland) Act, 1948, and at such intervals thereafter, not exceeding five years, as the Lord President and the Secretary of State may from time to time agree.”

- (2) This section shall come into operation on the passing of this Act.

### **24 Minor and consequential amendments relating to Part I.**

The enactments specified in the Ninth Schedule to this Act shall have effect subject to the amendments specified in that Schedule, being minor amendments and amendments consequential on the provisions of this Part of this Act.

### **25 Construction, citation and application of Part I.**

- (1) The provisions of this Part of this Act and the Schedules therein referred to shall be construed as one with the Agricultural Holdings (Scotland) Acts, 1923 and 1931; and those Acts and those provisions may be cited together as the Agricultural Holdings (Scotland) Acts, 1923 to 1948.
- (2) Without prejudice to section forty of the Act of 1923 (which relates to land belonging to His Majesty in right of the Crown) it is hereby declared that the provisions of the Agricultural Holdings (Scotland) Acts, 1923 and 1931, and this Part of this Act and the Schedules therein referred to apply to land notwithstanding that the interest of the landlord or the tenant thereof belongs to a government department or is held on behalf of His Majesty for the purposes of any government department; but in the application thereof to any land belonging, or an interest in which is held, as aforesaid the said provisions shall have effect subject to such modifications as may be prescribed.