

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 4: Compensation under Agricultural Tenancies

Section 54: Compensation where compulsory acquisition of land

175. Subject to two exceptions (see subsection (4)), this section applies where any acquiring authority acquires the interest of a tenant under, or takes possession of the land or any part of the land comprised in a lease constituting, an SLDT or LDT (thus making similar provision for such tenants as section 56 of the 1991 Act makes in respect of tenants of 1991 Act tenancies).
176. The first exception is where the land, or any part of it, is acquired for the purposes of agricultural research or experiment or of demonstrating agricultural methods (this exception does not apply where the power to acquire or take possession of the land is exercised by virtue of section 189 of the Town and Country Planning (Scotland) Act 1997 or section 7 of the New Towns (Scotland) Act 1968: see subsection (5)). The second exception is where the land or any part of it is acquired by the Scottish Ministers under sections 57(1)(c) or 64 of the Agriculture (Scotland) Act 1948.
177. Where subsection (1) applies, subsection (2) provides that the acquiring authority is to pay to the tenant compensation of a sum equal to four times the annual rental of the land or, where only part of the land is being compulsorily acquired or possessed, four times the annual rent proportionate to that part. The tenant will not be entitled to compensation where, immediately before the acquiring of the interest or taking of possession, that tenant was not in, nor entitled to take, possession of any of the land.
178. Subsection (6) applies, with modifications, Schedule 8 of the 1991 Act to payments made under subsection (2) as it does to payments made under section 56 of the 1991 Act. The two principal effects of this are that, first, any dispute as to the sum payable under subsection (2) is to be determined by the Lands Tribunal (see paragraph 1 of Schedule 8 to the 1991 Act); and, second, where the rent payable by the tenant (being the basis on which compensation is calculated) has not been independently determined under section 9 or 10 or by the Land Court then the acquiring authority, where it considers the rent to be “unduly high”, may make application for the rent to be considered by the Lands Tribunal for Scotland. The Tribunal must first determine the “appropriate rent” if determined under section 9 or 10. If the actual rent is not substantially higher than the “appropriate rent” then the application must be dismissed. If it is substantially higher than the “appropriate rent” but was not fixed by landlord and tenant with a view to increasing the compensation payable then the application must be dismissed. If the application is not to be dismissed then the compensation payable is to be ascertained on the basis of the “appropriate rent”.