



# Agricultural Holdings (Scotland) Act 2003

## 2003 asp 11

### PART 7

#### JURISDICTION OF THE LAND COURT AND THE RESOLUTION OF DISPUTES

##### *1991 Act tenancies*

#### 76 Arbitrations etc.

For section 61 (arbitrations) of the 1991 Act there is substituted—

##### **“61 Agreement to refer matters to arbitration**

- (1) Subject to subsection (2) below, where this Act makes provision for any matter to be determined by the Land Court, the matter may, if the landlord and tenant so agree at or after the time when the matter arises, instead of being so determined, be determined by arbitration.
- (2) Subsection (1) above does not apply in relation to any matter which may be determined by the Land Court—
  - (a) in pursuance of section 8(6), 11, 12, 22, 26, 32, 39, 41(1), 55(7) or 66(2) or (2A) of this Act; or
  - (b) on appeal.
- (3) In this Act, other than in section 61A, “arbitration” includes any other method of resolving the matter; and “arbiter” shall be construed accordingly.

##### **61A Arbitration: procedure etc.**

- (1) This section applies to any arbitration to which a matter is referred by the landlord and tenant under section 61(1) of this Act.
- (2) The agreement of the parties to refer the matter to arbitration shall have the effect of depriving each party of his right to—
  - (a) have the matter heard (or any issue in relation to the matter determined) by the Land Court (other than on appeal); and

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*Status: This is the original version (as it was originally enacted).*

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- (b) agree under section 61(1) of this Act to another method of resolving the matter.
- (3) It shall be for the landlord and tenant to agree whether the arbitration is conducted by—
- (a) a single arbiter; or
  - (b) two arbiters (with or without an oversman),
- and the arbiter or, as the case may be, each arbiter, may be appointed by the parties or by a person nominated by them.
- (4) The procedure to be followed at arbitration (including any matters to be taken into account by the arbiter and the matters to be contained in his award) shall, subject to subsection (5) below, be as the parties agree or, in the absence of such agreement, as the arbiter considers appropriate.
- (5) Any provision of this Act that would apply to the Land Court as respects its consideration or determination of any matter had the matter not been referred to arbitration shall apply as respects the consideration or determination of the matter by arbitration.
- (6) Any party to the arbitration may appeal to the Land Court against the arbiter's award on a question of law within 28 days of the award; and in an appeal under this subsection the Court may—
- (a) quash, confirm or vary the award or any part of it; and
  - (b) where the Court quashes the award or any part of it—
    - (i) remit the case to the arbiter for further procedure; and
    - (ii) direct the arbiter on any question of law relevant to the case.

### **61B Clauses in leases as to resolution of disputes**

Any term of—

- (a) a lease of an agricultural holding in relation to which this Act applies; or
- (b) any agreement in connection with such a lease (other than an agreement under section 61(1) of this Act),

that makes provision restricting any right of a landlord or tenant to apply to the Land Court under this Act to have a matter determined by the Court shall, in so far as it makes that provision, be null and void.”.