Community Empowerment (Scotland) Act 2015

2015 asp 6

PART 9

ALLOTMENTS

Compensation

133 Compensation for disturbance

(1) Subsection (2) applies where—

(a) the lease of the whole or part of an allotment is terminated—

(i) by notice under section 126(2)(b)(ii),

(ii) as a result of a notice of termination of the lease of the allotment site on which the allotment is situated under section 126(2)(b)(ii),

(iii) as a result of a notice of resumption of the allotment, or the allotment site on which the allotment is situated, under section 127(2), or

(iv) as a result of a notice mentioned in section 128(1)(c), and

(b) the tenant of the allotment suffers damage caused by disturbance of the enjoyment of the tenant's allotment as a result of the termination of the lease.

(2) The local authority giving or, as the case may be, receiving a notice mentioned in paragraph (a) of subsection (1) is liable to compensate a person referred to in paragraph (b) of that subsection.

(3) The minimum amount of compensation payable under subsection (2) is—

(a) where the termination of the lease relates to the whole of an allotment, an amount equal to one year's rent of the allotment payable immediately before the termination of the lease,

(b) where the termination of the lease relates to part of an allotment, a proportion of the amount mentioned in paragraph (a) that is in the same proportion that the part of the allotment bears to the whole of the allotment.

(4) The Scottish Ministers must by regulations make further provision for or in connection with compensation payable under subsection (2).

(5) Regulations under subsection (4) must include, in particular, provision about the procedure to be followed in—

(a) determining whether the local authority is liable to pay compensation under subsection (2), and

(b) subject to subsection (3), assessing the amount of compensation for which the local authority is liable in cases where the lease does not make such provision.

(6) Before making regulations under subsection (4), the Scottish Ministers must consult—

(a) local authorities, and

(b) any other person appearing to the Scottish Ministers to have an interest.

(7) A person referred to in subsection (1)(b) who is aggrieved about any decision by the local authority in connection with the duty imposed by subsection (2) may appeal to the sheriff within 21 days of receiving notice of the authority's decision.

Commencement Information

I1 S. 133(1)-(3)(7) in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

I2 S. 133(4)-(6) in force at 15.12.2017 for specified purposes by S.S.I. 2017/420, **art. 2(1)(a)**(2)

I3 S. 133(4)-(6) in force at 1.4.2018 in so far as not already in force by S.S.I. 2017/458, art. 2, **sch.**

Changes to legislation:
There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015, Section 133.