



# 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.

#### **134 Compensation for deterioration of allotment**

- (1) This section applies where—
  - (a) the lease of a person (“the tenant”) of an allotment has expired or been terminated, and
  - (b) it appears to the local authority which granted the lease of the allotment or, as the case may be, of the allotment site on which the allotment is situated that—
    - (i) the allotment deteriorated during the tenant’s lease of the allotment, and
    - (ii) the deterioration was caused by the fault or negligence of the tenant.
- (2) The tenant is liable to pay compensation for the deterioration to the tenant’s landlord.
- (3) The amount of compensation payable is the cost of remedying the deterioration.
- (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—
  - (a) in determining whether the tenant is liable to pay compensation under subsection (2), and
  - (b) in accordance with subsection (3), in assessing the amount of compensation for which the tenant 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 tenant 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.

### **135 Compensation for loss of crops**

- (1) This section applies where—
  - (a) the whole or part of an allotment is resumed under section 127(2), and
  - (b) the tenant of the allotment suffers loss of any crop as a result of the resumption.
- (2) The local authority that resumed the allotment under section 127(2) is liable to compensate the tenant.
- (3) The Scottish Ministers must by regulations make further provision for or in connection with compensation payable under subsection (2).
- (4) Regulations under subsection (3) 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) assessing the amount of compensation for which the local authority is liable in cases where the lease does not make such provision.
- (5) Before making regulations under subsection (3), the Scottish Ministers must consult—
  - (a) local authorities, and
  - (b) any other person appearing to the Scottish Ministers to have an interest.
- (6) A tenant 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.

### **136 Set-off of compensation etc.**

- (1) Where a local authority is liable to pay compensation to a former tenant under section 133(2) or 135(2), the local authority may deduct from the compensation any sum that the former tenant is liable to pay to the local authority in connection with the lease that was terminated.
- (2) Where a tenant is liable to pay any sum to a local authority in connection with a lease of an allotment, the tenant may deduct from the sum any compensation that the local authority is liable to pay to the tenant under section 133(2) or 135(2).