



Agricultural Holdings (Scotland) Act 1991

1991 CHAPTER 55

PART II

TERMS OF LEASES AND VARIATIONS THEREOF

Variation of rent

13 Variation of rent

- (1) Subject to subsection (8) below, the landlord or the tenant of an agricultural holding may, whether the tenancy was created before or after the commencement of this Act, by notice in writing served on the other party, demand a reference to arbitration of the question what rent should be payable in respect of the holding as from the next day after the date of the notice on which the tenancy could have been terminated by notice to quit (or notice of intention to quit) given on that date, and the matter shall be referred accordingly.
- (2) On a reference under subsection (1) above, the arbiter shall determine, in accordance with subsections (3) to (7) below the rent properly payable in respect of the holding as from the “next day” mentioned in subsection (1) above.
- (3) For the purposes of this section the rent properly payable in respect of a holding shall normally be the rent at which, having regard to the terms of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing landlord to a willing tenant, there being disregarded (in addition to the matters referred to in subsection (5) below) any effect on rent of the fact that the tenant is in occupation of the holding.
- (4) Where the evidence available to the arbiter is in his opinion insufficient to enable him to determine the rent properly payable or he is of the view that the open market for rents of comparable subjects in the surrounding area is distorted by scarcity of lets or by other factors, the rent properly payable for the purposes of this section shall be the rent which he would expect to be paid, in a market which was not affected by such distortion, having particular regard to the following—

Status: This is the original version (as it was originally enacted).

- (a) information about open market rents of comparable subjects outside the surrounding area;
 - (b) the entire range of offers made as regards any lease of subjects which are comparable after regard is had to the terms of that lease;
 - (c) sitting tenants' rents fixed by agreement for subjects in the surrounding area which are comparable after regard is had to any element attributable to goodwill between landlord and tenant or to similar considerations; and
 - (d) the current economic conditions in the relevant sector of agriculture.
- (5) The arbiter shall not take into account any increase in the rental value of the holding which is due to improvements—
- (a) so far as—
 - (i) they have been executed wholly or partly at the expense of the tenant (whether or not that expense has been or will be reimbursed by a grant out of moneys provided by Parliament) without equivalent allowance or benefit having been made or given by the landlord in consideration of their execution; and
 - (ii) they have not been executed under an obligation imposed on the tenant by the terms of his lease;
 - (b) which have been executed by the landlord, in so far as the landlord has received or will receive grants out of moneys provided by Parliament in respect of the execution thereof,
- nor fix the rent at a higher amount than would have been properly payable if those improvements had not been so executed.
- (6) The continuous adoption by the tenant of a standard of farming or a system of farming more beneficial to the holding than the standard or system required by the lease or, in so far as no system of farming is so required, than the system of farming normally practised on comparable holdings in the district, shall be deemed, for the purposes of subsection (5) above, to be an improvement executed at his expense.
- (7) The arbiter shall not fix the rent at a lower amount by reason of any dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the tenant.
- (8) Subject to subsection (9) below, a reference to arbitration under subsection (1) above shall not be demanded in circumstances which are such that any increase or reduction of rent made in consequence thereof would take effect as from a date earlier than the expiry of 3 years from the latest in time of the following—
- (a) the commencement of the tenancy;
 - (b) the date as from which there took effect a previous variation of rent (under this section or otherwise);
 - (c) the date as from which there took effect a previous direction under this section that the rent should continue unchanged.
- (9) There shall be disregarded for the purposes of subsection (8) above—
- (a) a variation of rent under section 14 of this Act;
 - (b) an increase of rent under section 15(1) of this Act;
 - (c) a reduction of rent under section 31 of this Act.

14 Arbitrations under sections 4 and 5

Where it appears to an arbiter—

- (a) on a reference under section 4 of this Act that, by reason of any provision which he is required by that section to include in his award, or
- (b) on a reference under section 5 of this Act that, by reason of any provision included in his award,

it is equitable that the rent of the holding should be varied, he may vary the rent accordingly.

15 Increase of rent for certain improvements by landlord

- (1) Where the landlord of an agricultural holding has, whether before or after the commencement of this Act, carried out on the holding an improvement (whether or not one for the carrying out of which compensation is provided for under Part IV of this Act)—

- (a) at the request of, or in agreement with, the tenant,
- (b) in pursuance of an undertaking given by the landlord under section 39(3) of this Act, or
- (c) in compliance with a direction given by the Secretary of State under powers conferred on him by or under any enactment,

subject to subsections (2) and (3) below, the rent of the holding shall, if the landlord by notice in writing served on the tenant within 6 months from the completion of the improvement so requires, be increased as from the completion of the improvement by an amount equal to the increase in the rental value of the holding attributable to the carrying out of the improvement.

- (2) Where any grant has been made to the landlord out of moneys provided by Parliament, in respect of an improvement to which subsection (1) above applies, the increase in rent provided for by that subsection shall be reduced proportionately.
- (3) Any question arising between the landlord and the tenant in the application of this section shall be determined by arbitration.