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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 457**

**The Allotments (Compensation) (Scotland) Regulations 2017**

**PART 4**

**Compensation for loss of crops**

**Regulation 10(1) notice of claim**

**10.**—(1) An applicant who considers that the authority is liable to compensate him or her under section 135(2) of the Act must give a regulation 10(1) notice of claim to the authority.

(2) The regulation 10(1) notice of claim must be—

- (a) in writing;
- (b) signed by the applicant; and
- (c) given to the authority within 28 days beginning with the date the allotment is resumed.

(3) The regulation 10(1) notice of claim must include or be accompanied by the following information and evidence:—

- (a) the applicant's full name;
- (b) the applicant's address;
- (c) the allotment site and the location of the allotment which has been resumed within the site;
- (d) a statement of—
  - (i) the crops lost as a result of the resumption; and
  - (ii) the amount of compensation claimed in respect of the crops so lost, based on the costs directly attributable to the lawful buying and growing of the crop; and
- (e) photographs taken no earlier than 28 days before the date of resumption, receipts, or other evidence as to the matters mentioned in sub-paragraph (d).

**Consideration of regulation 10(1) notice of claim**

**11.**—(1) Within 28 days beginning with the date on which the authority receives the regulation 10(1) notice of a claim, the authority must decide whether or not it has received sufficient information and evidence under regulation 10(3) to enable it to determine the matters mentioned in paragraph (2).

(2) The matters mentioned in this paragraph are—

- (a) whether the authority is or is not liable to pay compensation to the applicant under section 135(2) of the Act; and
- (b) if it is so liable—
  - (i) whether or not the lease makes provision about the procedure to be followed in assessing the amount of compensation which the authority is liable to pay under section 135(2) of the Act; and

(ii) the amount of compensation the authority is liable to pay under section 135(2) of the Act in cases where the lease does not make such provision.

(3) If the authority decides under paragraph (1) that it has not received sufficient information or evidence under regulation 10(3) to allow it to determine the matters mentioned in paragraph (2) it must, within the period mentioned in paragraph (1), give the applicant written notice stating any further information or evidence that it requires.

(4) The applicant must give the authority any information or evidence stated in the notice mentioned in paragraph (3) within—

- (a) 28 days beginning with the date on which the applicant receives the notice; or
- (b) such longer period as agreed between the authority and the applicant in writing.

### **Authority's decision**

**12.**—(1) For the purposes of paragraph (2) the relevant date is the day after the day on which—

- (a) the period mentioned in regulation 11(1) expires; or
- (b) where regulation 11(3) applies, the period mentioned in regulation 11(4) expires.

(2) Within 28 days beginning with the relevant date the authority must—

- (a) determine the matters mentioned in regulation 11(2)(a) and, if applicable, (b); and
- (b) take the steps mentioned in paragraph (5), (6) or (7), as applicable.

(3) The determination by the authority under paragraph (2)(a) must take account of—

- (a) the information and evidence included in or accompanying the regulation 10(1) notice of claim; and
- (b) any information and evidence given to the authority under regulation 11(4);
- (c) where the lease makes provision about the procedure to be followed in assessing the amount of compensation for which the authority is liable, that procedure.

(4) Where the authority has given notice under regulation 11(3) and it has not received the information or evidence stated in that notice within the period mentioned in regulation 11(4), the authority must determine under paragraph (2)(a) that it is not liable to pay compensation under section 135(2) of the Act.

(5) If the authority determines that it is liable to pay compensation under section 135(2) of the Act of the amount stated in the regulation 10(1) notice of claim, it must—

- (a) give written notice to the applicant accepting the claim; and
- (b) pay the applicant the amount of compensation stated in the regulation 10(1) notice of claim within 30 days beginning with the date on which the written notice is given under subparagraph (a).

(6) If the authority determines that it is liable to pay compensation under section 135(2) of the Act of a lesser amount than that stated in the regulation 10(1) notice of claim, it must—

- (a) give written notice to the applicant stating—
  - (i) the amount of compensation the authority is liable to pay under section 135(2) of the Act; and
  - (ii) the reasons for its determination; and
- (b) pay the applicant the amount of compensation stated in the written notice given under subparagraph (a) within 30 days beginning with the date on which the written notice is given.

(7) If the authority determines that it is not liable to pay compensation under section 135(2) of the Act, it must give written notice to the applicant—

- (a) refusing the claim; and
- (b) stating the reasons for its decision.

(8) A notice under paragraph (6) or (7) must contain particulars of the applicant's right to appeal a decision of the authority under section 135(6) of the Act.

(9) The amount of compensation stated in a notice given under paragraph (5) or (6) is recoverable as a civil debt.