



Land Compensation (Scotland) Act 1973

1973 CHAPTER 56

PART III

PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

Farm loss payments

31 Right to farm loss payment where person displaced from agricultural unit.

- (1) Where land constituting or included in an agricultural unit is land in respect of which the person in occupation of the unit has an owner's interest, then if—
- ^{F1}[(a) in consequence of the compulsory acquisition of his interest in the whole, or a sufficient part, of that land, he is displaced from the land acquired;]
- (b) not more than three years after the date of displacement he begins to farm another agricultural unit ("the new unit") elsewhere in Great Britain,
- he shall, subject to the provisions of this section and section 33 below, be entitled to receive a payment (hereafter referred to as a "farm loss payment") from the acquiring authority.
- (2) In subsection (1) above "owner's interest" means the interest of an owner or a lessee under a lease [^{F2}where his interest is as a lessee for a year or from year to year or a greater interest,], or the interest of a crofter or a landholder [^{F3}, and "sufficient part" means not less than 0.5 hectares or such other area as the Secretary of State may by order specify].
- ^{F4}[(2A) The power to make an order under subsection (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]
- (3) For the purposes of this section a person is displaced from land in consequence of the compulsory acquisition of his interest therein if, and only if, he gives up possession thereof—

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- (a) on being required to do so by the acquiring authority [^{F5}or on any date after the making or confirmation of the compulsory purchase order but before being required to do so by the acquiring authority];
- (b) on completion of the acquisition; or
- [^{F6}(c) where the acquiring authority permit him to remain in possession of the land under a lease, or a right or permission relating to land but not amounting to an estate or interest therein, of a kind not making him–
 - (i) where the owner’s interest for the purposes of subsections (1) and (2) above was that of tenant under a lease constituting a short limited duration tenancy [^{F7}, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy] within the meaning of the [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), a tenant of such a tenancy with a duration not less than that of the unexpired term of the tenancy which constituted the owner’s interest as at the date on which he gave up possession; or
 - (ii) in any other case, a tenant of a lease constituting a 1991 Act tenancy within the meaning of that Act,]

and references in this section and section 32 below to the date of displacement are references to the date on which the person concerned gives up possession as aforesaid.

- (4) No farm loss payment shall be made to any person unless on the date on which he begins to farm the new unit he is in occupation of the whole of that unit in right of an interest as owner thereof or a lease thereof, not having been entitled to any such interest or lease before the date on which the acquiring authority were authorised to acquire his interest in the land acquired.
- (5) No farm loss payment shall be made by virtue of the displacement of a person from any land if he is entitled to a payment under section 12 of the ^{MI}Agriculture (Miscellaneous Provisions) Act 1968 in consequence of the acquisition of an interest in, or the taking of possession of, that land.

^{F8}(6)

- (7) This section applies if the date of displacement is on or after 17th October 1972.

Textual Amendments

- F1** S. 31(1)(a) substituted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt.1) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17**, Pt. I, para. 14(2) (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F2** Words in s. 31(2) substituted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt. I) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17**, Pt. I, para. 14(3)(a) (with s. 84(5)); S.I. 1991/2092, **art.3**
- F3** Words in s. 31(2) inserted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt. I) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17**, Pt. I, para. 14(3)(b) (with s. 84(5)); S.I. 1991/2092, **art.3**
- F4** S. 31(2A) inserted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt. I) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17**, Pt. I, para. 14(4) (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F5** Words in s. 31(3)(a) added (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt. I) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17**, Pt. I para. 14(5) (with s. 84(5)); S.I. 1991/2092, **art. 3**

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- F6** S. 31(3)(c) substituted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 8(a)**
- F7** Words in s. 31(3)(c)(i) substituted (30.11.2017) by [The Land Reform \(Scotland\) Act 2016 \(Supplementary, Consequential, Transitory and Saving Provisions\) Regulations 2017 \(S.S.I. 2017/416\)](#), reg. 1(1), **sch. 1 para. 2(2)** (with sch. 2 para. 2(a))
- F8** S. 31(6) repealed (25.9.1991) (subject to limitation referred to in [S.I. 1991/2092](#), art. 4(1), **Sch. 2**, Pt.I) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), ss.79, 84(6), Sch. 17, Pt. I, para. 14(6), **Sch. 19**, Pt.IV (with s. 84(5)); [S.I. 1991/2092](#), **art. 3**

Marginal Citations

- M1** 1968 c. 34.

32 Amount of farm loss payment.

- (1) Subject to the provisions of this section, the amount of any farm loss payment shall be equal to the average annual profit derived from the use for agricultural purposes of the agricultural land comprised in the land acquired; and that profit shall be computed by reference to the profits for the three years ending with the date of displacement or, if the person concerned has then been in occupation for a shorter period, that period.
- (2) Where accounts have been made up in respect of the profits of the person concerned for a period or consecutive periods of twelve months and that period or the last of them ends not more than one year before the date of displacement, subsection (1) above shall have effect as if the date on which that period or the last of those periods ends were the date of the displacement.
- (3) Where the date of displacement is determined in accordance with section 31(3)(c) above and the person concerned has on that date been in occupation for more than three years, he may elect that the average annual profit shall, instead of being computed by reference to the profits for the years mentioned in subsection (1) above, be computed by reference to the profits for—
 - (a) any three consecutive periods of twelve months for which accounts in respect of his profits have been made up, being periods for which he has been in occupation and the last of which ends on or after the date of completion of the acquisition; or
 - (b) if there are no such periods as aforesaid, any three consecutive years for which he has been in occupation and the last of which ends on or after the date mentioned in paragraph (a) above.
- (4) In calculating the profits mentioned in subsection (1) above there shall be deducted a sum equal to the rent that might reasonably be expected to be payable in respect of the agricultural land comprised in the land acquired if it were let for agricultural purposes to a tenant responsible for rates, repairs and other outgoings; and that deduction shall be made whether or not the land is in fact let and, if it is, shall be made to the exclusion of any deduction for the rent actually payable.
- (5) In calculating the profits mentioned in subsection (1) above there shall be left out of account profits from any activity if a sum in respect of loss of profits from that activity would fall to be included in the compensation, so far as attributable to disturbance, for the acquisition of the interest in the land acquired.

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- (6) Where the value of the agricultural land comprised in the land acquired exceeds the value of the agricultural land comprised in the new unit the amount of the farm loss payment shall be proportionately reduced.
- (7) For the purposes of subsection (6) above the value of any land shall be assessed—
- (a) on the basis of its value as land used solely for agriculture and as for an interest as owner thereof with vacant possession;
 - (b) by reference to the condition of the land and its surroundings and to prices current—
 - (i) in the case of the land comprised in the land acquired, on the date of displacement;
 - (ii) in the case of land comprised in the new unit, on the date on which the person concerned begins to farm the new unit;
 - (c) in accordance with rules (2) to (4) of the rules set out in section 12 of the ^{M2}Land Compensation (Scotland) Act 1963;
 - (d) without regard to the principal dwelling, if any, comprised in the same agricultural unit as that land.
- (8) The amount of a farm loss payment shall not be greater than the amount, if any, by which—
- (a) that payment, calculated apart from this subsection, together with compensation for the acquisition of the interest in the land acquired assessed on the assumptions mentioned in section 5(2), (3) and (4) above, (including any sum included as compensation for disturbance), exceeds
 - (b) the compensation actually payable for the acquisition of that interest.
- (9) Any dispute as to the amount of a farm loss payment shall be referred to and determined by the Lands Tribunal.

Marginal Citations

M2 1963 c. 51.

33 Supplementary provisions about farm loss payments.

- (1) Subject to subsection (7) below, no farm loss payment shall be made except on a claim in that behalf made by the person entitled thereto before the expiration of the period of one year beginning with the date on which the requirement in section 31(1)(b) above is complied with, and any such claim shall be in writing and shall be accompanied or supplemented by such particulars as the acquiring authority may reasonably require to enable them to determine whether that person is entitled to a payment and, if so, its amount.
- (2) Where the agricultural unit containing the land acquired is occupied for the purposes of a partnership firm sections 31 and 32 above shall have effect in relation to the firm and not the partners individually (any interest of a partner in the land acquired being treated as an interest of the firm) except that the requirements in section 31 as to the new unit shall be treated as complied with in relation to the firm as soon as they are complied with by any one of the persons who were members of the firm.

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- (3) Where a person dies before the expiration of the period for making a claim to a farm loss payment and would have been entitled to such a payment if he had made a claim within that period, a claim to that payment may be made, before the expiration of that period, by his personal representative.
- (4) Where an interest in land is acquired by agreement by an authority possessing compulsory purchase powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any farm loss payment which they would be required to make to him if the acquisition were compulsory and the authority (if not authorised to acquire the interest compulsorily) had been so authorised on the date of the agreement.
- (5) Where a farm loss payment is made to any person the authority making the payment shall also pay any reasonable valuation or legal expenses incurred by that person for the purposes of the preparation and prosecution of his claim to the payment; but this subsection is without prejudice to the powers of the Lands Tribunal in respect of the expenses of proceedings before the Tribunal by virtue of section 32(9) above.
- (6) A farm loss payment shall carry interest, at the rate for the time being prescribed under section 40 of the ^{M3}Land Compensation (Scotland) Act 1963, from the date mentioned in subsection (1) above until payment.
- (7) Where the date mentioned in subsection (1) above is before 23rd May 1973 the period within which a claim to a farm loss payment can be made shall be the period of one year beginning with 23rd May 1973.

Marginal Citations

M3 1963 c. 51.

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