



# Land Compensation (Scotland) Act 1973

## 1973 CHAPTER 56

### PART IV

#### COMPULSORY PURCHASE

##### *Severance of land*

#### **52 Effect of counter-notice under section 51.**

- (1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 51 above agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal; and on any such reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid in accordance with its determination of that question.
- (2) Where a counter-notice is accepted as, or declared to be, valid under subsection (1) above then, if before the end of twelve months after it has been so accepted or declared the claimant has given up possession of every part of the agricultural holding to the acquiring authority—
  - (a) the notice of entry shall be deemed to have extended to the part of the holding to which it did not relate; and
  - (b) the acquiring authority shall be deemed to have taken possession of that part in pursuance of that notice on the day before the expiration of the year of the tenancy which is current when the counter-notice is so accepted or declared.
- (3) Where the claimant gives up possession of an agricultural holding to the acquiring authority as aforesaid but the authority have not been authorised to acquire the landlord's interest in, or in any of, the part of the holding to which the notice of entry did not relate ("the land not subject to compulsory purchase")—
  - (a) neither the claimant nor the authority shall be under any liability to the landlord by reason of the claimant giving up possession of the land not subject to compulsory purchase or the authority taking or being in possession of it;

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*Changes to legislation: There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Section 52. (See end of Document for details)*

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- (b) immediately after the date on which the authority take possession of the land not subject to compulsory purchase they shall give up to the landlord, and he shall take, possession of that land;
  - (c) the tenancy shall be treated as terminated on the date on which the claimant gives up possession of the holding to the acquiring authority or (if he gives up possession of different parts at different times) gives up possession as aforesaid of the last part, but without prejudice to any rights or liabilities of the landlord or the claimant which have accrued before that date;
  - (d) any rights of the claimant against, or liabilities of the claimant to, the landlord which arise on or out of the termination of the tenancy by virtue of paragraph (c) above (whether under the lease, the <sup>F1</sup>Agricultural Holdings (Scotland) Act 1991][<sup>F2</sup>, the Agricultural Holdings (Scotland) Act 2003] , the <sup>M1</sup>Crofters (Scotland) Acts 1955 <sup>M2</sup> and 1961, the Small Landholders (Scotland) Acts 1886 to 1931 or otherwise) shall be rights and liabilities of the authority, and any question as to the payment to be made in respect of any such right or liability shall be referred to and determined by the Lands Tribunal;
  - (e) any increase in the value of the land not subject to compulsory purchase which is attributable to the landlord's taking possession of it under paragraph (b) above shall be deducted from the compensation payable in respect of the acquisition of his interest in the remainder of the holding.
- (4) Where a tenancy is terminated by virtue of subsection (3)(c) above, [<sup>F3</sup>section 47(1) of the Agricultural Holdings (Scotland) Act 1991] (landlord's right to compensation for deterioration of holding) shall have effect as if [<sup>F3</sup>the said section 47(1)] required the landlord's notice of intention to claim compensation to be served on the acquiring authority and to be so served within three months after the termination of the tenancy.

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#### Textual Amendments

- F1** Words in s. 52(3)(d) substituted (25.09.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para. 35\(a\)](#) (with s. 45(3), [Sch. 12 para. 3](#)).
- F2** Words in s. 52(3)(d) inserted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, [sch. para. 8\(c\)](#)
- F3** Words in s. 52(4) substituted (25.09.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para. 35\(b\)](#) (with s. 45(3), [Sch. 12 para. 3](#)).
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#### Marginal Citations

- M1** 1955 c. 21.
- M2** 1961 c. 58.

**Changes to legislation:**

There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Section 52.