Agricultural Holdings (Scotland) Act 1991

1991 CHAPTER 55

PART II

TERMS OF LEASES AND VARIATIONS THEREOF

[F1 Tenant's right to withhold rent

Textual Amendments

F1 S. 15A and cross-heading inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), **ss. 64**, 95(3), 95(4) (with s. 95(2)); S.S.I. 2003/548, art. 2(e) (with Sch.)

15A Tenant's right to withhold rent

(1) Subsection (2) below shall apply to an order—

(a) made under subsection (1)(b) of section 84 of the Agricultural Holdings (Scotland) Act 2003 (asp 11); and

(b) which is in relation to a failure of the landlord of an agricultural holding to fulfil any obligation he has towards the tenant in respect of fixed equipment.

(2) Where the landlord has failed—

(a) in a material regard; and

(b) as at the date specified under subsection (2) of that section,

to comply with an order to which this subsection applies, the tenant may apply to the Land Court for an order under subsection (3) below.

(3) An order under this subsection may (either or both)—

(a) authorise the tenant to carry out such work as the landlord would have to have carried out for the landlord to comply with the order to which subsection (2) above applies; and

(b) authorise the tenant to withhold payment of the rent payable to the landlord in respect of the holding on the condition that the tenant shall consign to the Land Court the amount otherwise so payable.

(4) The Land Court may, on the application of the tenant, from time to time release to the tenant any of the amount so consigned towards or in satisfaction of any reasonable costs incurred or to be incurred by the tenant for the purposes of or in connection with the carrying out of such work as is mentioned in paragraph (a) of subsection (3) above.

(5) The Land Court, on the application of the landlord and having regard to—

(a) whether any work mentioned in paragraph (a) of subsection (3) above remains to be carried out; and

(b) any costs mentioned in subsection (4) above,

may terminate the order made under subsection (3) above if the Court consider that it would be not be appropriate for the order to remain in force.

(6) Where the Land Court terminate the order made under subsection (3) above, the Court shall order such division between the landlord and tenant of the amount (or, where any of the amount has been released to the tenant, any remaining amount) consigned under subsection (3)(b) above as the Court consider to be equitable.

(7) Any work carried out and authorised under subsection (3)(a) above shall be treated as having been carried out at the landlord's expense in so far as the costs of the work have been or are to be satisfied by the release to the tenant of any amount consigned under subsection (3)(b) above.

(8) Any right of the landlord—

(a) to irritate the lease on the grounds of non-payment of rent; or

(b) under section 20 or 22 of this Act in relation to non-payment of rent,

shall be unenforceable if the non-payment is in consequence of an authorisation under subsection (3)(b) above to withhold rent.

(9) Any term of the lease or of any agreement between the landlord and tenant that purports to deprive the tenant of any right conferred by virtue of this section shall, in so far as it so purports, be null and void.**]**

Changes to legislation:
There are currently no known outstanding effects for the Agricultural Holdings (Scotland) Act 1991, Cross Heading: Tenant's right to withhold rent.