



Agricultural Holdings (Scotland) Act 1991

1991 CHAPTER 55

PART IV

COMPENSATION FOR IMPROVEMENTS

38 Notice required of certain improvements.

- (1) Subject to subsections (2) to (6) below, compensation under this Act shall not be payable for—
- (a) a 1923 Act improvement specified in Part II of Schedule 3 to this Act;
 - (b) a 1931 Act improvement specified in Part II of Schedule 4 to this Act;
 - (c) a new improvement specified in Part II of Schedule 5 to this Act;
- unless the tenant gave notice to the landlord in accordance with subsection (3) below of his intention to carry it out and of the manner in which he proposed to do so.
- (2) Subsection (1) above shall not apply in the case of an improvement mentioned in subsection (1)(a) or (b) above, if the parties agreed by the lease or otherwise to dispense with the requirement for notice under subsection (3).

[^{F1}(2A) Subsection (1) above shall not apply in the case of an improvement mentioned in subsection (1)(c) above if the improvement was carried out by executing work which the landlord was required, at the time the lease was entered into and by virtue of section 5(2)(a) of this Act, to execute in order to fulfil his obligations under the lease.]

- (3) Notice shall be in accordance with this subsection if it is in writing and—
- (a) in the case of an improvement mentioned in subsection (1)(a) above, it was notice under section 3 of the ^{M1}Agricultural Holdings (Scotland) Act 1923, given not more than 3 nor less than 2 months,
 - (b) in the case of an improvement mentioned in subsection (1)(b) above, it was notice under the said section 3, given not more than 6 nor less than 3 months,
 - (c) in the case of an improvement mentioned in subsection (1)(c) above, it was given not less than 3 months,
- before the tenant began to carry out the improvement.

*Changes to legislation: There are currently no known outstanding effects for the
Agricultural Holdings (Scotland) Act 1991, Section 38. (See end of Document for details)*

- (4) In the case of an improvement mentioned in subsection (1)(a) or (b) above, compensation shall not be payable unless—
- (a) the parties agreed on the terms as to compensation or otherwise on which the improvement was to be carried out;
 - (b) where no such agreement was made and the tenant did not withdraw the notice, the landlord failed to exercise his right under the said section 3 to carry out the improvement himself within a reasonable time; or
 - (c) in the case of an improvement mentioned in subsection (1)(b) above, where the landlord gave notice of objection and the matter was referred under section 28(2) of the ^{M2}Small Landholders and Agricultural Holdings (Scotland) Act 1931 for determination by the appropriate authority, that authority was satisfied that the improvement should be carried out and the improvement was carried out in accordance with any directions given by that authority as to the manner of so doing.

^{F2}(5)

- (6) In subsection (4) above, “the appropriate authority” means—
- (a) in relation to the period before 4th September 1939, the Department of Agriculture for Scotland;
 - (b) in relation to the period starting on that day, the Secretary of State.

Textual Amendments

- F1** S. 38(2A) inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 43(3), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(d) (with Sch.)
- F2** S. 38(5) repealed (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 43(2)(c), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(d) (with Sch.)
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Marginal Citations

- M1** 1923 c. 10.
M2 1931 c. 44.

Changes to legislation:

There are currently no known outstanding effects for the Agricultural Holdings (Scotland) Act 1991, Section 38.