



# Agricultural Holdings (Scotland) Act 1991

## 1991 CHAPTER 55

### PART VIII

#### MISCELLANEOUS

#### **75 Power of tenant and landlord to obtain charge on holding.**

- (1) Where any sum has become payable to the tenant of an agricultural holding in respect of compensation by the landlord and the landlord has failed to discharge his liability therefor within one month after the date on which the sum became payable, the Secretary of State may, on the application of the tenant and after giving not less than 14 days' notice of his intention so to do to the landlord, create, where the landlord is the owner of the <sup>F1</sup>... holding, a charge on the holding, or where the landlord is the lessee of the holding under a lease recorded [<sup>F2</sup>or registered] under the <sup>M1</sup>Registration of Leases (Scotland) Act 1857 a charge on the lease for the payment of the sum due.
- (2) For the purpose of creating a charge of a kind referred to in subsection (1) above, the Secretary of State may make in favour of the tenant a charging order charging and burdening the holding or the lease, as the case may be, with an annuity to repay the sum due together with the expenses of obtaining the charging order and recording it in the General Register of Sasines or registering it in the Land Register of Scotland.
- (3) Where the landlord of an agricultural holding, not being the owner of the <sup>F1</sup>... holding, has paid to the tenant of the holding the amount due to him under this Act, or under custom or agreement, or otherwise, in respect of compensation for an improvement or in respect of compensation for disturbance, or has himself defrayed the cost of an improvement proposed to be executed by the tenant, the Secretary of State may, on the application of the landlord and after giving not less than 14 days notice to the <sup>F1</sup>... owner of the holding, make in favour of the landlord a charging order charging and burdening the holding with an annuity to repay the amount of the compensation or of the cost of the improvement, as the case may be, together with the expenses of obtaining the charging order and recording it in the General Register of Sasines or registering it in the Land Register of Scotland.

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*Changes to legislation: There are currently no known outstanding effects for the Agricultural Holdings (Scotland) Act 1991, Section 75. (See end of Document for details)*

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- (4) Section 65(2), (4) and (6) to (10) of the <sup>M2</sup>Water (Scotland) Act 1980 shall, with the following and any other necessary modifications, apply to any such charging order as is mentioned in subsection (2) or (3) above, that is to say—
- (a) for any reference to an islands or district council there shall be substituted a reference to the Secretary of State;
  - (b) for any reference to the period of 30 years there shall be substituted—
    - (i) where subsection (1) above applies, a reference to such period (not exceeding 30 years) as the Secretary of State may determine;
    - (ii) in the case of a charging order made in respect of compensation for, or of the cost of, an improvement, a reference to the period within which the improvement will, in the opinion of the Secretary of State, have become exhausted;
  - (c) for references to Part V of the said Act of 1980 there shall be substituted references to this Act.
- (5) Where subsection (3) above applies, an annuity constituted a charge by a charging order recorded in the General Register of Sasines or registered in the Land Register of Scotland shall be a charge on the holding specified in the order and shall rank after all prior charges heritably secured thereon.
- (6) The creation of a charge on a holding under this section shall not be deemed to be a contravention of any prohibition against charging or burdening contained in the deed or instrument under which the holding is held.

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#### Textual Amendments

- F1** Words in s. 75(1)(3) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2; S.S.I. 2003/456, art. 2
- F2** Words in s. 75(1) inserted (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012](#) (asp 5), ss. 122, 123, [Sch. 5 para. 33](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/127, art. 2
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#### Marginal Citations

- M1** 1857 c. 26.
- M2** 1980 c. 45.

**Changes to legislation:**

There are currently no known outstanding effects for the Agricultural Holdings (Scotland) Act 1991, Section 75.