



Agricultural Holdings (Amendment) (Scotland) Act 1983

CHAPTER 46

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ELIZABETH II



Agricultural Holdings (Amendment) (Scotland) Act 1983

1983 CHAPTER 46

An Act to amend the law relating to termination of tenancies of agricultural holdings in Scotland and to variation of rent for such holdings; and for connected purposes. [13th May 1983]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

AMENDMENT OF THE AGRICULTURAL HOLDINGS (SCOTLAND) ACT 1949 c.75

1. In this Part of this Act, "the 1949 Act" means the Agricultural Holdings (Scotland) Act 1949. Interpretation.
1949 c. 75.

2. In section 7 of the 1949 Act (variation of rent)— Variation of
rent.

(a) in the second sentence of subsection (1)—

(i) after the word "shall" there shall be inserted the word "normally"; and

(ii) for the words "the next following subsection" there shall be substituted the words "subsection (2) below,";

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(b) after the said subsection (1) there shall be inserted the following subsection—

“ (1A) Where the evidence available to the arbiter is in his opinion insufficient to enable him to determine the rent properly payable or he is of the view that the open market for rents for comparable subjects in the surrounding area is distorted by scarcity of lets or by other factors, the rent properly payable for the purposes of subsection (1) of this section shall be the rent which he would expect to be paid, in a market which was not affected by such distortion, having particular regard to the following—

- (i) information about open market rents of comparable subjects outside the surrounding area ;
 - (ii) the entire range of offers made as regards any lease of subjects which are comparable after regard is had to the terms of that lease ;
 - (iii) sitting tenants' rents fixed by agreement for subjects in the surrounding area which are comparable after regard is had to any element attributable to goodwill between landlord and tenant or to similar considerations ; and
 - (iv) the current economic conditions in the relevant sector of agriculture.” ;
- (c) in subsection (2) for the words “ the last foregoing subsection ” in each place that they occur there shall be substituted the words “ subsection (1) of this section ” ; and
- (d) in subsection (3) for the word “ five ” there shall be substituted the word “ three ” ; Provided that the foregoing provision shall have no effect where the latest date in terms of that subsection is earlier than the commencement of this Act.

Restrictions
on notices
to quit.

3. In section 25 of the 1949 Act (restrictions on operation of notices to quit), after subsection (2)(g) there shall be inserted the following paragraph and subsection—

“ (h) subject to section 26A of this Act and to subsection (2A) below, at the date of the giving of the notice to quit the tenant was a person who after 1st August 1958 had acquired right to the lease of the holding—

- (i) under section 16 of the Succession (Scotland) Act 1964 ; or
- (ii) as a legatee under section 20 of this Act.

1964 c. 41.

(2A) Notice to quit is duly given to such tenant as is mentioned in paragraph (h) of subsection (2) above if—

- (a) it complies with section 24 of this Act ; and
- (b) it specifies as its effective date—

- (i) where, when the tenant acquired right to the lease, the unexpired period of the lease exceeded two years, the term of outgo stipulated in the lease ;

- (ii) where, when the tenant acquired right to the lease, the unexpired period was two years or less, the term of outgo stipulated in the lease or the corresponding date in any subsequent year, being a date not less than one nor more than three years after the said acquisition.”.

4.—(1) In section 26 of the 1949 Act (consents for purposes of section 25)—

Termination of tenancies acquired by succession.

- (a) in subsection (1) at the beginning, there shall be inserted the words “ Except where section 26A(3) of this Act applies ” ; and

- (b) in subsection (5) after the word “ may ” there shall be inserted the words “ , subject to section 26A(4) of this Act, ”.

(2) After section 26 of the 1949 Act there shall be inserted the following section—

“Termination of tenancies acquired by succession.

26A.—(1) This section and subsection (1) of section 25 of this Act shall apply where notice to quit is duly given to the tenant of an agricultural holding who is a near relative of the deceased tenant and has acquired right to the lease of the holding—

- (a) under section 16 of the Succession (Scotland) 1964 c. 41. Act 1964 ; or

- (b) as a legatee, under section 20 of this Act.

(2) For the purposes of this section, a notice is duly given if—

- (a) it complies with section 24 of this Act ;

- (b) it specifies the Case set out in the Ninth Schedule to this Act under which it is given ; and

- (c) it specifies as its effective date—

- (i) where, when the tenant acquired right to the lease, the unexpired period of the lease exceeded two years, the term of outgo stipulated in the lease ;

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(ii) where, when the tenant acquired right to the lease, the unexpired period was two years or less, the term of outgo stipulated in the lease or the corresponding date in any subsequent year, being a date not less than one nor more than three years after the said acquisition.

(3) The Land Court shall consent to the operation of a notice duly given under this section—

- (a) where the holding was let before 1st January 1984, if they are satisfied that the circumstances are as specified in any Case in Part I of the said Ninth Schedule ;
- (b) where the holding was let on or after that date and the notice specifies any of Cases 4, 5 or 7 in the said Schedule, unless the tenant satisfies them that the circumstances are not as specified in that Case (provided that, for the purposes of Case 7, the tenant shall not be required to prove that he is not the owner of any land) ;
- (c) where the holding was let on or after the said date, if they are satisfied that the circumstances are as specified in Case 6 in that Schedule ;

Provided that, where any of Cases 1, 2, 3, 6 or 7 in that Schedule applies, the Court shall withhold consent on that ground if it appears to them that a fair and reasonable landlord would not insist on possession.

(4) Where consent is given because the circumstances are as specified in Case 2 or 6 of the said Schedule, the Land Court shall impose such conditions as appear to them necessary to secure that the holding to which the notice relates will, within two years after the termination of the tenancy, be amalgamated with the land specified in the notice ; and section 30 of this Act shall, with any necessary modifications, apply to a condition imposed under this subsection as that section applies to a condition imposed under section 26 of this Act.

(5) Part III of the said Schedule shall have effect for the purposes of interpretation of this section and that Schedule.”.

(3) After the Eighth Schedule to the 1949 Act there shall be inserted the Schedule set out in Schedule 1 to this Act which shall form the Ninth Schedule to that Act.

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5.—(1) In section 75 of the 1949 Act (provision as to arbitrations) after subsection (1) there shall be inserted the following subsection—

Arbitrations.

“(1A) An appeal by way of application by any party to an arbitration under section 7(1) of this Act (variation of rent) shall on any question of law or fact (including the amount of the award) lie to the Land Court against the award of any arbiter appointed by the Secretary of State or the Land Court:

Provided that any such appeal under this subsection must be brought within two months of the date of issue of the award.”.

(2) In the Sixth Schedule to the 1949 Act (provision as to arbitrations)—

(a) in paragraph 8, for the word “two” there shall be substituted the word “three”;

(b) after paragraph 9 there shall be inserted the following paragraph—

“9A. An arbiter appointed by the Secretary of State or the Land Court in an arbitration under section 7(1) of this Act shall, in making his award, state in writing his findings of fact and the reasons for his decision and shall make such statement available to the Secretary of State and the parties.”;

(c) in paragraph 10, after the word “award” there shall be inserted the words “, and any statement made under paragraph 9A of this Schedule,”;

(d) in paragraph 14, at the beginning, there shall be inserted the words “Subject to section 75 (1A) of this Act,”;

(e) in each of paragraphs 19 and 20, at the beginning, there shall be inserted the words “Subject to paragraph 20A of this Schedule,”; and

(f) after paragraph 20 there shall be inserted the following paragraph—

“20A. Where the arbiter in any arbitration under section 7(1) of this Act has been appointed by the Secretary of State or the Land Court paragraphs 19 and 20 of this Schedule shall not apply as regards the arbitration and instead the arbiter may at any stage of the proceedings state a case (whether at the

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request of either party or on his own initiative) on any question of law arising in the course of the arbitration for the opinion of the Land Court, whose decision shall be final.”.

PART II

SUPPLEMENTARY

Repeals.

6. The enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Citation,
commence-
ment and
extent.

7.—(1) This Act may be cited as the *Agricultural Holdings (Amendment) (Scotland) Act 1983*.

(2) This Act shall come into force at the end of the period of two months beginning with the date on which it is passed.

(3) This Act shall extend to Scotland only.

SCHEDULES

SCHEDULE 1

Section 4.

GROUNDS FOR CONSENT TO OPERATION OF NOTICES TO QUIT A TENANCY

(to be inserted in the Agricultural Holdings (Scotland) Act 1949
as the Ninth Schedule)

PART I

GROUNDS FOR CONSENT TO OPERATION OF NOTICE TO QUIT A TENANCY LET BEFORE 1 JANUARY 1984.

Case 1

The tenant has neither sufficient training in agriculture nor sufficient experience in the farming of land to enable him to farm the holding with reasonable efficiency.

Case 2

(a) The holding or any agricultural unit of which it forms part is not a two-man unit ;

(b) the landlord intends to use the holding for the purpose of effecting an amalgamation within two years after the termination of the tenancy ; and

(c) the notice specifies the land with which the holding is to be amalgamated.

Case 3

The tenant is the occupier (either as owner or tenant) of agricultural land which—

(a) is a two-man unit ;

(b) is distinct from the holding and from any agricultural unit of which the holding forms part ; and

(c) has been occupied by him since before the death of the person from whom he acquired right to the lease of the holding,

and the notice specifies the agricultural land.

PART II

GROUNDS FOR CONSENT TO OPERATION OF NOTICE TO QUIT A TENANCY LET ON OR AFTER 1 JANUARY 1984.

Case 4

The tenant does not have sufficient financial resources to enable him to farm the holding with reasonable efficiency.

Case 5

The tenant has neither sufficient training in agriculture nor sufficient experience in the farming of land to enable him to farm the holding with reasonable efficiency: Provided that this Case shall not apply where the tenant has been engaged, throughout the period from the date of death of the person from whom he acquired right to the lease, in a course of relevant training in agriculture which he is expected

SCH. 1

to complete satisfactorily within four years from the said date and has made arrangements to secure that the holding will be farmed with reasonable efficiency until he completes that course.

Case 6

(a) The holding or any agricultural unit of which it forms part is not a two-man unit ;

(b) the landlord intends to use the holding for the purpose of effecting an amalgamation within two years after the termination of the tenancy ; and

(c) the notice specifies the land with which the holding is to be amalgamated.

Case 7

The tenant is the occupier (either as owner or tenant) of agricultural land which—

(a) is a two-man unit ;

(b) is distinct from the holding ; and

(c) has been occupied by him throughout the period from the date of giving of the notice,

and the notice specifies the land.

PART III

SUPPLEMENTARY

1. For the purposes of section 26A of this Act and this Schedule—

“ amalgamation ” means a transaction for securing that agricultural land which is comprised in a holding to which a notice to quit relates and which together with other agricultural land could form an agricultural unit, shall be owned and occupied in conjunction with that other land ;

“ near relative ” in relation to a deceased tenant of an agricultural holding means a surviving spouse or child of that tenant, including a child adopted by him in pursuance of an adoption order (as defined in section 23(5) of the Succession (Scotland) Act 1964) ; and

“ two-man unit ” means an agricultural unit which in the opinion of the Land Court is capable of providing full-time employment for an individual occupying it and at least one other man.

1964 c. 41.

2. For the purposes of determining whether land is a two-man unit, in assessing the capability of the unit of providing employment it shall be assumed that the unit is farmed under reasonably skilled management, that a system of husbandry suitable for the district is followed and that the greater part of the feeding stuffs required by any livestock kept on the unit is grown there.

3. For the purposes of Case 7 of this Schedule, occupation of agricultural land— SCH. 1

(a) by a company which is controlled by the tenant shall be treated as occupation by the tenant ; and

(b) by a Scottish partnership shall, notwithstanding section 4(2) of the Partnership Act 1890, be treated as occupation by each of its partners. 1890 c. 39.

SCHEDULE 2

Section 6.

REPEALS

Chapter	Short title	Extent of repeal
1949 c. 75.	The Agricultural Holdings (Scotland) Act 1949.	Section 7(2)(b).
1958 c. 71.	The Agriculture Act 1958.	Section 2. Section 6(3).
1968 c. 34.	The Agriculture (Miscellaneous Provisions) Act 1968.	Part III.

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