



# Agricultural Holdings (Scotland) Act 2003

## 2003 asp 11

### PART 4

#### COMPENSATION UNDER AGRICULTURAL TENANCIES

### CHAPTER 2

#### COMPENSATION FOR DISTURBANCE AND DIVERSIFICATION ETC.

#### *1991 Act tenancies*

#### **51 Compensation arising as a result of diversification etc.**

- (1) After section 45 (compensation to landlord for deterioration etc.) of the 1991 Act there is inserted—

**“45A Compensation arising as a result of diversification and cropping of trees**

- (1) Subject to subsection (2) below, the landlord of an agricultural holding shall be entitled to recover from the tenant, on his quitting the holding on termination of the tenancy, compensation where the landlord shows that the value of the holding has been reduced during the tenancy by the use, on or after the coming into force of this section, of the holding for a purpose which is not an agricultural purpose; and the amount of compensation payable shall be an amount equal to the reduction in the value of the holding.
- (2) Where there are trees on the holding which were planted—
- (a) by the tenant on or after the coming into force of this section; and
  - (b) for future cropping,
- the landlord or tenant shall be entitled to recover from the other, on the tenant quitting the holding on the termination of the tenancy, compensation calculated in accordance with subsections (3) and (4) below.
- (3) For the purposes of subsection (2) above, at the termination of the tenancy—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the trees shall be valued on the basis of their worth to a willing purchaser for future cropping; and
  - (b) there shall be evaluated any loss of rent to the landlord which would be incurred by his retaining the trees until the likely date of cropping added to the cost to him of returning the land to agricultural use after cropping.
- (4) If the value reached under paragraph (a) of subsection (3) above is—
- (a) greater than that reached under paragraph (b) of that subsection, the tenant shall be entitled to the difference between the values as compensation;
  - (b) less than that reached under paragraph (b) of that subsection, the landlord shall be entitled to the difference between the values as compensation.
- (5) Where the value of an agricultural holding has been increased during the tenancy by such use of the land or part of the land, or such change to the land, for a purpose that is not an agricultural purpose—
- (a) as occurred on or after the coming into force of this section; and
  - (b) as had been permitted under section 40 or 41 of the Agricultural Holdings (Scotland) Act 2003 (asp 11),
- the tenant shall, subject to subsections (6) and (7) below, be entitled, on quitting the holding on termination of the tenancy, to recover from the landlord such compensation as fairly represents the value of the use, change or carrying out of the activities to an incoming tenant.
- (6) In ascertaining the amount of compensation payable under subsection (5) above—
- (a) there shall be taken into account any benefit which the landlord has agreed in writing to give the tenant in consideration of the matters referred to in that subsection; and
  - (b) where a grant has been or will be made to the tenant in respect of those matters, subject to the conditions of the grant—
    - (i) if either the landlord or tenant has not made or will not make a contribution towards the cost of the improvement, or neither of them has made or will make such a contribution, the grant shall not be taken into account;
    - (ii) in any other case, there shall be taken into account such proportion of the grant as equals the proportion of the contribution by the tenant towards the cost of the improvement as a proportion of the total of his contribution added to that of the landlord.
- (7) No compensation is payable under subsection (5) above if, owing to—
- (a) any of the matters referred to in that subsection, the land is unsuitable for use for agriculture by an incoming tenant; or
  - (b) any use of fixed equipment in connection with any of those matters, the landlord would, at the commencement of an incoming tenant's tenancy, be unable to fulfil his obligations under the lease as to fixed equipment,
- in so far as those matters or, as the case may be, that use is attributable to those facts.

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**Status:** *This is the original version (as it was originally enacted).*

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- (8) Where the tenant has remained in occupation of the holding during two or more tenancies, he shall not be deprived of his right to compensation under this section by reason only that the use of the land or change to the land did not occur during the tenancy on the termination of which he quits the holding.”
- (2) In section 47 (provisions supplementary to sections 45 and 46) of that Act, in subsection (1), for the words “under section 45” there is substituted “by the landlord under section 45 or 45A”.