



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

PART 7

JURISDICTION OF THE LAND COURT AND THE RESOLUTION OF DISPUTES

Short limited duration tenancies and limited duration tenancies etc.

77 Resolution of disputes by Land Court

- (1) The Land Court has jurisdiction to hear and determine any of the matters referred to in subsection (2).
- (2) Those matters are—
 - (a) whether—
 - (i) a short limited duration tenancy;
 - (ii) a limited duration tenancy; or
 - (iii) a tenancy to which section 3 applies,exists or has been terminated;
 - (b) any question or difference between the landlord and tenant arising out of or in connection with any such tenancy, whether the question or difference arises during the currency of or on or after the termination of the tenancy;
 - (c) any claim by the landlord or tenant of any such tenancy against the other which arises, by virtue of this Act or under any rule of law, custom or agreement, on or out of the termination of the tenancy or of any part of it;
 - (d) any other issue of fact or law relating to—
 - (i) any such tenancy or a 1991 Act tenancy; or
 - (ii) agriculture,which the landlord or tenant reasonably require to have resolved.
- (3) Such matters do not include any question as to—
 - (a) who is entitled to succeed to the estate of a deceased person on intestacy by virtue of the Succession (Scotland) Act 1964 (c. 41);
 - (b) the validity of
 - (i) any bequest; or

Status: This is the original version (as it was originally enacted).

- (ii) any transfer,
of any interest under the lease constituting the tenancy; or
 - (c) whether any such transfer is in the best interests of the estate of a deceased person.
- (4) The Land Court also has jurisdiction to hear and determine any question or difference, between the tenant under a limited duration tenancy and any person with whom the tenant has in pursuance of section 7(1) entered into a contract assigning the tenant's interest under the lease constituting the tenancy, which arises out of or in connection with the assignment.
- (5) Any application to the Land Court for a matter to be determined by the Court by virtue of this Act may be made by either party or by them jointly.
- (6) Any reference in this section to a landlord or tenant of a tenancy is to be construed as including a person who was formerly the landlord or tenant of the tenancy.
- (7) Any other provision of an enactment which provides for the determination of any matter by the Land Court is without prejudice to this section.

78 Agreement to refer matters to arbitration

- (1) Subject to subsection (2), where by virtue of this Act any matter may be determined by the Land Court, the matter may, if the landlord and tenant so agree at or after the time when the matter arises, instead of being so determined, be determined by—
- (a) arbitration; or
 - (b) any other method of resolving the matter.
- (2) Subsection (1) does not apply in relation to any matter which may be determined by the Land Court—
- (a) in pursuance of section 21, 22 or 49(2); or
 - (b) on appeal.

79 Arbitration: procedure etc.

- (1) This section applies to any arbitration to which a matter is referred by the landlord and tenant under section 78(1)(a).
- (2) The agreement of the parties to refer the matter to arbitration has the effect of depriving each party of the right to—
- (a) have the matter heard (or any issue in relation to the matter determined) by the Land Court (other than on appeal); and
 - (b) agree under section 78(1)(b) to another method of resolving the matter.
- (3) It is for the landlord and tenant to agree whether the arbitration is conducted by—
- (a) a single arbiter; or
 - (b) two arbiters (with or without an oversman),
- and the arbiter or, as the case may be, each arbiter may be appointed by the parties or by a person nominated by them.
- (4) The procedure to be followed at arbitration (including any matters to be taken into account by the arbiter and the matters to be contained in the arbiter's award) is, subject

to subsection (5), to be as the parties agree or, in the absence of such agreement, as the arbiter considers appropriate.

- (5) Any provision by virtue of this Act that would apply to the Land Court as respects its consideration or determination of any matter had the matter not been referred to arbitration applies as respects the consideration or determination of the matter by arbitration.
- (6) Any party to the arbitration may appeal to the Land Court against the arbiter's award on a question of law within 28 days of the award; and in an appeal under this subsection the Court may—
 - (a) quash, confirm or vary the award or any part of it; and
 - (b) where the Court quashes the award or any part of it—
 - (i) remit the case to the arbiter for further procedure; and
 - (ii) direct the arbiter on any question of law relevant to the case.

80 Other provisions as to the resolution of disputes

- (1) Section 62 (claims on termination of tenancy) of the 1991 Act applies to any claim referred to in section 77(2)(c) as it does to any claim referred to in section 60(2)(c) of that Act.
- (2) Section 65 (recovery of compensation and other sums due) of that Act applies to any award or agreement by virtue of this Act as it does to any award or agreement under that Act.
- (3) In section 66 (power to enable demand to remedy breach to be modified) of that Act, subsection (1) applies in relation to a matter which may be determined by the Land Court by virtue of this Act as it does in relation to a matter which may be determined by the Land Court under that Act.

81 Clauses in leases as to resolution of disputes

Any term of—

- (a) a lease constituting a short limited duration tenancy, a limited duration tenancy or a tenancy to which section 3 applies; or
- (b) any agreement in connection with such a lease (other than an agreement under section 78(1)),

that makes provision restricting any right of the landlord or tenant to apply to the Land Court by virtue of this Act to have a matter determined by the Court is, so far as it makes that provision, of no effect.