



# Agricultural Holdings (Scotland) Act 1991

## 1991 CHAPTER 55

### PART IX

#### SUPPLEMENTARY

*Crown and Secretary of State*

#### **79 Application to Crown land.**

(1) This Act shall apply to land belonging to Her Majesty in right of the Crown, with such modifications as may be prescribed; and for the purposes of this Act the Crown Estate Commissioners or other proper officer or body having charge of the land for the time being, or if there is no such officer or body, such person as Her Majesty may appoint in writing under the Royal Sign Manual, shall represent Her Majesty and shall be deemed to be the landlord.

[<sup>F1</sup>(1A) In subsection (1), “proper officer or body” includes a person who manages any land to which section 90B(5) of the Scotland Act 1998 applies.]

(2) This Act shall apply to land notwithstanding that the interest of the landlord or the tenant thereof belongs to a government department or is held on behalf of Her Majesty for the purposes of any government department with such modifications as may be prescribed.

#### **Textual Amendments**

**F1** [S. 79\(1A\)](#) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 24](#)

#### **80 Determination of matters where Secretary of State is landlord or tenant.**

(1) This section applies where the Secretary of State is the landlord or the tenant of an agricultural holding.

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

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- (2) Where this section applies, any provision of this Act [<sup>F2</sup>(except section 8)]—
- (a) under which any matter relating to the holding is referred to the decision of the Secretary of State,<sup>F3</sup> ...
  - <sup>F3</sup>(b) .....
- shall have effect with the substitution for every reference to “the Secretary of State” of a reference to “ the Land Court ”, and any provision referred to in paragraph (a) above which provides for an appeal to an arbiter from the decision of the Secretary of State shall not apply.

- [<sup>F4</sup>(3) Where this section applies, section 8 of this Act shall have effect—
- (a) with the substitution for “Scottish Ministers” in subsection (3) of “sheriff”;
  - (b) as if subsection (3A) were omitted.]

#### Textual Amendments

- F2** Words in s. 80(2) inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 61(2)(a), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(e) (with Sch.)
- F3** S. 80(2)(b) and preceding word repealed (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), s. 95(3)(4), **Sch. para. 41** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with Sch.)
- F4** S. 80(3) inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 61(2)(b), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(e) (with Sch.)

## 81 Expenses and receipts.

- (1) All expenses incurred by the Secretary of State under this Act shall be paid out of moneys provided by Parliament.
- (2) All sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

## 82 Powers of entry and inspection.

- (1) Any person authorised by the Secretary of State in that behalf shall have power at all reasonable times to enter on and inspect any land for the purpose of determining whether, and if so in what manner, any of the powers conferred on the Secretary of State by this Act are to be exercised in relation to the land, or whether, and if so in what manner, any direction given under any such power has been complied with.
- (2) Any person authorised by the Secretary of State who proposes to exercise any power of entry or inspection conferred by this Act shall, if so required, produce some duly authenticated document showing his authority to exercise the power.
- (3) Admission to any land used for residential purposes shall not be demanded as of right in the exercise of any such power unless 24 hours notice of the intended entry has been given to the occupier of the land.
- (4) Save as provided by subsection (3) above, admission to any land shall not be demanded as of right in the exercise of any such power unless notice has been given to the occupier of the land that it is proposed to enter during a period, specified in the notice, not exceeding 14 days and beginning at least 24 hours after the giving of the notice and the entry is made on the land during the period specified in the notice.

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- (5) Any person who obstructs a person authorised by the Secretary of State exercising any such power shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### *Land Court*

#### **F<sup>5</sup>83 Proceedings of the Land Court.**

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##### **Textual Amendments**

**F5** S. 83 repealed (5.1.1994) by 1993 c. 45, s. 2(2)(3), **Sch.2**

### *Service of notices*

#### **84 Service of notices, etc..**

- (1) Any notice or other document required or authorised by or under this Act to be given to or served on any person shall be duly given or served if it is delivered to him, or left at his proper address, or sent to him by registered post or recorded delivery.
- (2) Any such document required or authorised to be given to or served on an incorporated company or body shall be duly given or served if it is delivered to or sent by registered post or recorded delivery to the registered office of the company or body.
- (3) For the purposes of this section and of section 7 of the <sup>M1</sup>Interpretation Act 1978, the proper address of any person to or on whom any such document as aforesaid is to be given or served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person in question.
- (4) Unless or until the tenant of an agricultural holding shall have received notice that the person previously entitled to receive the rents and profits of the holding (hereinafter referred to as “the original landlord”) has ceased to be so entitled, and also notice of the name and address of the person who has become so entitled, any notice or other document served on or delivered to the original landlord by the tenant shall be deemed to have been served on or delivered to the landlord of the holding.

##### **Modifications etc. (not altering text)**

**C1** S. 84(4) applied (13.6.2017) by Land Reform (Scotland) Act 2016 (asp 18), **ss. 114(4), 130(1)** (with s. 128); S.S.I. 2017/20, reg. 2, sch.

##### **Marginal Citations**

**M1** 1978 c. 30.

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## *Interpretation*

### **85 Interpretation.**

(1) In this Act, unless the context otherwise requires—

“the 1911 Act” means the <sup>M2</sup>Small Landholders (Scotland) Act 1911;

“the 1949 Act” means the <sup>M3</sup>Agricultural Holdings (Scotland) Act 1949;

“agricultural holding” (except in sections 68 to 72 of this Act) and “agricultural land” have the meanings assigned to them by section 1 of this Act;

“agricultural unit” means land which is an agricultural unit for the purposes of the <sup>M4</sup>Agriculture (Scotland) Act 1948;

“agriculture” includes horticulture, fruit growing; seed growing; dairy farming; livestock breeding and keeping; the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds; and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes: and “agricultural” shall be construed accordingly;

“building” includes any part of a building;

[<sup>F6</sup>“enactment” includes an Act of the Scottish Parliament or an instrument made under an Act of the Scottish Parliament;]

“fixed equipment” includes any building or structure affixed to land and any works on, in, over or under land, and also includes anything grown on land for a purpose other than use after severance from the land, consumption of the thing grown or of produce thereof, or amenity, and, without prejudice to the foregoing generality, includes the following things, that is to say—

- (a) all permanent buildings, including farm houses and farm cottages, necessary for the proper conduct of the agricultural holding;
- (b) all permanent fences, including hedges, stone dykes, gate posts and gates;
- (c) all ditches, open drains and tile drains, conduits and culverts, ponds, sluices, flood banks and main water courses;
- (d) stells, fanks, folds, dippers, pens and bughts necessary for the proper conduct of the holding;
- (e) farm access or service roads, bridges and fords;
- (f) water and sewerage systems;
- (g) electrical installations including generating plant, fixed motors, wiring systems, switches and plug sockets;
- (h) shelter belts,

and references to fixed equipment on land shall be construed accordingly;

“improvement” shall be construed in accordance with section 33 of this Act, and “new improvement”, “old improvement”, “1923 Act improvement” and “1931 Act improvement” have the meanings there assigned to them;

“Land Court” means the Scottish Land Court;

“Lands Tribunal” means the Lands Tribunal for Scotland;

“landlord” means any person for the time being entitled to receive the rents and profits or to take possession of an agricultural holding, and includes the executor, assignee, legatee, disponee, guardian, curator bonis [<sup>F7</sup>or tutor of a landlord or the trustee or interim trustee in the sequestration of a landlord's estate;]

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“lease” means a letting of land for a term of years, or for lives, or for lives and years, or from year to year;

“livestock” includes any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land;

“market garden” means a holding, cultivated, wholly or mainly, for the purpose of the trade or business of market gardening;

“prescribed” means prescribed by the Secretary of State by regulations made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;

“produce” includes anything (whether live or dead) produced in the course of agriculture;

“tenant” means the holder of land under a lease of an agricultural holding and includes the executor, assignee, legatee, donee, guardian, tutor [<sup>F8</sup> or curator bonis of a tenant or the trustee or interim trustee in the sequestration of a tenant's estate;]

“termination”, in relation to a tenancy, means the termination of the lease by reason of effluxion of time or from any other cause;

- (2) Schedules 5 and 6 to the <sup>M5</sup>Agriculture (Scotland) Act 1948, (which have effect respectively for the purpose of determining for the purposes of that Act whether the owner of agricultural land is fulfilling his responsibilities to manage it in accordance with the rules of good estate management and whether the occupier of such land is fulfilling his responsibilities to farm it in accordance with the rules of good husbandry) shall [<sup>F9</sup>, subject to subsections (2A) and (2B) below,] have effect for the purposes of this Act as they have effect for the purposes of that Act.

[<sup>F10</sup>(2A) For the purposes of this Act, conservation activities are to be treated as being in accordance with the rules of good husbandry if they are carried out in accordance with—

- (a) an agreement entered into under any enactment by the tenant; or
- (b) the conditions of—
  - (i) any grant for the purpose of such activities paid out of the Scottish Consolidated Fund; or
  - (ii) such other grant of a public nature as may be prescribed.

(2B) For the purposes of this Act, 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 as has been permitted under section 40 or 41 of the Agricultural Holdings (Scotland) Act 2003 (asp 11) is to be treated as being in accordance with the rules of good husbandry.]

- (3) References in this Act to the farming of land include references to the carrying on in relation to the land of any agricultural activity.
- (4) References to the terms, conditions, or requirements of a lease of or of an agreement relating to, an agricultural holding shall be construed as including references to any obligations, conditions or liabilities implied by the custom of the country in respect of the holding.
- (5) Anything which by or under this Act is required or authorised to be done by, to or in respect of the landlord or the tenant of an agricultural holding may be done by, to or in respect of any agent of the landlord or of the tenant.

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

#### Textual Amendments

- F6** Words in s. 85 inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), s. 95(3)(4), [Sch. para. 42](#) (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with Sch.)
- F7** Words in s. 85(1) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 12\(5\)\(a\)](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F8** Words in s. 85(1) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 12\(5\)\(b\)](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F9** Words in s. 85(2) inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), [ss. 69\(1\), 95\(3\), 95\(4\)](#) (with s. 95(2)); S.S.I. 2003/548, art. 2(e) (with Sch.)
- F10** S. 85(2A)-(2B) inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), [ss. 69\(2\), 95\(3\), 95\(4\)](#) (with s. 95(2)); S.S.I. 2003/548, art. 2(e) (with Sch.)

#### Marginal Citations

- M2** 1911 c. 49.
- M3** 1949 c. 75.
- M4** 1948 c. 45.
- M5** 1948 c. 45.

### 86 Construction of references in other Acts to holdings as defined by earlier Acts.

References, in whatever terms, in any enactment, other than an enactment contained in—

    this Act,  
    the Agricultural Holdings (Scotland) Acts 1923 and 1931, or,  
    Part I of the <sup>M6</sup>Agriculture (Scotland) Act 1948

to a holding within the meaning of the Agricultural Holdings (Scotland) Act 1923 or of the Agricultural Holdings (Scotland) Acts 1923 to 1948 shall be construed as references to an agricultural holding [<sup>F11</sup>to which this Act applies].

#### Textual Amendments

- F11** Words in s. 86 substituted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), s. 95(3)(4), [Sch. para. 43](#) (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with Sch.)

#### Marginal Citations

- M6** 1948 c. 45.

### 87 Savings.

Schedule 12 to this Act, which exempts from the operation of this Act certain cases current at the commencement of this Act and contains other transitional provisions and savings shall have effect.

*Consequential amendments and repeals*

**88 Consequential amendments and repeals.**

- (1) The enactments specified in Schedule 11 to this Act shall be amended in accordance with that Schedule.
- (2) The enactments specified in Schedule 13 to this Act are repealed to the extent there specified.

*Citation, commencement and extent*

**89 Citation, commencement and extent.**

- (1) This Act may be cited as the Agricultural Holdings (Scotland) Act 1991.
- (2) This Act shall come into force at the end of the period of 2 months beginning with the date on which it is passed.
- (3) This Act shall extend to Scotland only, except for those provisions in Schedule 11 which amend enactments which extend to England and Wales or to Northern Ireland.

**Changes to legislation:**

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