



Land Compensation (Scotland) Act 1973

1973 CHAPTER 56

PART IV

COMPULSORY PURCHASE

Miscellaneous

55 Notice to quit agricultural holding: right to opt for notice of entry compensation

- (1) This section has effect where the person in occupation of an agricultural holding, being a person having no greater interest therein than as tenant for a year or from year to year, is served with a notice to quit the holding, and—
- (a) the notice is served after an acquiring authority have served notice to treat on the landlord of the holding or, being an authority possessing compulsory purchase powers, have agreed to acquire his interest in the holding; and
 - (b) either—
 - (i) subsection (1) of section 25 of the Agricultural Holdings (Scotland) Act 1949 does not apply to the notice by virtue of subsection (2)(c) of that section (land required for non-agricultural use for which planning permission has been granted, etc.); or
 - (ii) the Scottish Land Court have consented to the operation of the notice and stated in the reasons for their decision that they are satisfied as to the matter mentioned in section 26(1)(e) of that Act (land required for non-agricultural use not falling within section 25(2)(c)).
- (2) If the person served with the notice to quit elects that this subsection shall apply to the notice and gives up possession of the holding to the acquiring authority on or before the date on which his tenancy terminates in accordance with the notice—
- (a) section 114 of the Lands Clauses Consolidation (Scotland) Act 1845 (compensation for tenants from year to year, etc.) and section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 shall have effect as if the notice to quit had not been served and the acquiring authority had taken possession of the holding in pursuance of a notice of entry under paragraph 3

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of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on the day before that on which the tenancy terminates in accordance with the notice to quit; and

- (b) the provisions of the Agricultural Holdings (Scotland) Act 1949 relating to compensation to a tenant on the termination of his tenancy and sections 9 and 15(3) of the Agriculture (Miscellaneous Provisions) Act 1968 (additional payment and compensation in cases of notice to quit) shall not have effect in relation to the termination of the tenancy by reason of the notice to quit.
- (3) No election under subsection (2) above shall be made or, if already made, continue to have effect in relation to any land (whether the whole or part of the land to which the notice to quit relates) if, before the expiration of that notice, an acquiring authority take possession of that land in pursuance of an enactment providing for the taking of possession of land compulsorily.
 - (4) Any election under subsection (2) above shall be made by notice in writing served on the acquiring authority not later than the date on which possession of the holding is given up.
 - (5) This section shall have effect in relation to a notice to quit part of an agricultural holding as it has effect in relation to a notice to quit an entire holding and references to a holding and the termination of the tenancy shall be construed accordingly.
 - (6) A person served with a notice to quit part of an agricultural holding shall not be entitled, in relation to that notice, both to make an election under this section and to give a counter-notice under section 33 of the Agricultural Holdings (Scotland) Act 1949 (tenant's right to treat notice to quit part of holding as notice to quit entire holding).
 - (7) The reference in subsection (1)(a) above to a notice to treat served by an acquiring authority includes a reference to a notice to treat deemed to have been so served under any of the provisions mentioned in section 49(5) above.
 - (8) This section and section 57 below shall have effect in relation to a notice given in pursuance of a stipulation in a lease entitling the landlord to resume land for building, planting, feuing or other purposes (not being agricultural purposes) as it has effect in relation to a notice to quit as if, in this section, subsections (1)(b) and (6) were omitted; and references in this section to the termination of the tenancy shall be construed accordingly.
 - (9) This section shall not apply where the person in occupation of an agricultural holding is a crofter, landholder or statutory small tenant.

56 Requirement to surrender croft, etc.: right to opt for notice of entry compensation

- (1) This section has effect where—
 - (a) the person in occupation of an agricultural holding is a crofter and is required by an order of the Scottish Land Court under section 12 of the Crofters (Scotland) Act 1955 to surrender his croft; and
 - (b) the crofter is so required—
 - (i) after an acquiring authority have served notice to treat on the landlord of the croft or, being an authority possessing compulsory purchase powers, have agreed to acquire his interest in the croft, and

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- (ii) where the Court have been satisfied under the said section 12 that the landlord desires to resume the croft for a reasonable purpose which is a purpose other than an agricultural purpose.
- (2) If the crofter required by such an order to surrender his croft elects that this subsection shall apply to the order and gives up possession of the croft to the acquiring authority on or before the date on which the croft is required to be surrendered in accordance with the order—
- (a) section 114 of the Lands Clauses Consolidation (Scotland) Act 1845 (compensation for tenants from year to year, etc.) shall have effect as if the crofter had not been so required to surrender his croft and the acquiring authority had taken possession of the croft in pursuance of a notice of entry under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on the day before that on which the croft is required to be surrendered in accordance with the order ; and
- (b) any provision of an order under section 12 of the Crofters (Scotland) Act 1955 relating to the compensation to a crofter shall not have effect in relation to the surrender of the croft by reason of the order.
- (3) No election under subsection (2) above shall be made or, if already made, continue to have effect in relation to any land to which such an order relates if, before the date on which the croft is required to be surrendered in accordance with the order, an acquiring authority take possession of that land in pursuance of an enactment providing for the taking of possession of land compulsorily.
- (4) Any election under subsection (2) above shall be made by notice in writing served on the acquiring authority not later than the date on which possession of the croft is given up.
- (5) This section shall have effect in relation to an order to surrender part of a croft as it has effect in relation to an order to surrender an entire croft and references to a croft shall be construed accordingly.
- (6) The reference in subsection (1)(b)(i) above to a notice to treat served by an acquiring authority includes a reference to a notice to treat deemed to have been so served under any of the provisions mentioned in section 49(5) above.
- (7) This section shall apply to a landholder as it applies to a crofter except that for any reference to a croft, crofter or section 12 of the Crofters (Scotland) Act 1955 there shall be substituted respectively a reference to a holding, landholder or section 2 of the Crofters Holdings (Scotland) Act 1886.
- (8) This section shall apply to a statutory small tenant subject to the modifications set out in Part I of Schedule 1 to this Act; and in accordance with this subsection this section shall have effect in relation to a statutory small tenant as set out in Part II of that Schedule.

57 Notice to quit part of agricultural holding: right to claim notice of entry compensation for remainder of holding

- (1) Where a notice to quit in respect of which a person is entitled to make an election under section 55 above relates to part only of an agricultural holding and that person makes such an election within the period of two months beginning with the date of service of that notice, or, if later, the decision of the Scottish Land Court, he may also within

that period serve a notice on the acquiring authority claiming that the remainder of the holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit

- (2) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under subsection (1) above agree in writing to accept the notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal, and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid in accordance with its determination of that question.
- (3) Where a notice under subsection (1) above is accepted as, or declared to be, valid under subsection (2) above then, if before the end of twelve months after it has been so accepted or declared the claimant has given up to the acquiring authority possession of the part of the holding to which the notice relates, section 114 of the Lands Clauses Consolidation (Scotland) Act 1845 and section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 shall have effect as if the acquiring authority had taken possession of that part in pursuance of a notice of entry under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on the day before the expiration of the year of the tenancy which is current when the notice is so accepted or declared.
- (4) Subsections (2) to (4) of section 51 and subsection (3) of section 52 above shall apply in relation to subsections (1) to (3) above and to a notice under subsection (1) above as they apply in relation to those sections and a counter-notice under subsection (1) of section 51, and shall so apply with the necessary modifications and as if any reference to the notice of entry were a reference to the notice to quit
- (5) Where an election under section 55 above ceases to have effect in relation to any land by virtue of subsection (3) of that section any notice served by virtue of this section shall also cease to have effect in relation thereto.

58 Requirement to surrender part of croft, etc.: right to claim notice of entry compensation for remainder

- (1) Where an order of the Scottish Land Court in respect of which a person is entitled to make an election under section 56 above relates to part only of a croft or holding and that person makes such an election within the period of two months beginning with the date of the making of the order, he may also within that period serve a notice on the acquiring authority claiming that the remainder of the croft or holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit.
- (2) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under subsection (1) above agree in writing to accept the notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal, and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid in accordance with its determination of that question.
- (3) Where a notice under subsection (1) above is accepted as, or declared to be valid under subsection (2) above then, if before the end of twelve months after it has been so accepted or declared the claimant has given up to the acquiring authority possession of the part of the croft or holding to which the notice relates, section 114 of the Lands Clauses Consolidation (Scotland) Act 1845 shall have effect as if the

acquiring authority had taken possession of that part in pursuance of a notice of entry under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on the day before the expiration of the year of the tenancy which is current when the notice is so accepted or declared.

- (4) Subsections (2) to (4) of section 51 and subsection (3) of section 52 above shall apply in relation to subsections (1) to (3) above and to a notice under subsection (1) above as they apply in relation to those sections and a counter-notice under subsection (1) of section 51, and shall so apply with the necessary modifications and as if in section 51(3)(b) for the words " service of the notice of entry " and in section 52(3) for the words " the notice of entry " there were substituted the words " the order of the Scottish Land Court ".
- (5) Where an election under section 56 above ceases to have effect in relation to any land by virtue of subsection (3) of that section any notice served by virtue of this section shall cease to have effect in relation thereto.
- (6) Subsection (3) above shall apply in the case of the holding of a statutory small tenant as if after the word " 1845 " there were inserted the words " and section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 ".

59 Interest on compensation for injurious affection where no land taken

Compensation under section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (compensation for injurious affection where no land taken) shall carry interest, at the rate for the time being prescribed under section 40 of the Land Compensation (Scotland) Act 1963, from the date of the claim until payment.

60 Extension of grounds for challenging validity of compulsory purchase order

In paragraph 15 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (which enables an aggrieved person to challenge the validity of a compulsory purchase order on the ground that certain requirements have not been complied with) references to those requirements shall include references to any requirements of the Tribunals and Inquiries Act 1971 or of any rules made, or having effect as if made, under that Act.

61 Construction of section 6 of Railways Clauses Consolidation (Scotland) Act 1845

At the end of section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (construction of railway to be subject to that Act and Lands Clauses Consolidation (Scotland) Act 1845) there shall be added the following subsection—

- “(2) For the avoidance of doubt it is hereby declared that in this section the reference to the construction of the railway includes a reference to the execution of works in connection therewith.”

62 Amendment of section 35 of Roads (Scotland) Act 1970

Section 35 of the Roads (Scotland) Act 1970 (general provisions as to acquisition of land) shall have effect as if—

- (a) after subsection (1) there were inserted the following subsection—

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“(1A) Any power to acquire land compulsorily conferred by any of the said sections or by section 20 of the Land Compensation (Scotland) Act 1973 shall include power to acquire a servitude or other right in or over land by the creation of a new right.”;

(b) at the end there were added the following subsection—

“(5) Where under section 29, 30, 31, 32 or 33 of this Act or section 20 of the Land Compensation (Scotland) Act 1973 a highway authority are authorised to acquire land by agreement, the Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845) and sections 6 and 70 of the Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act, as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923, shall be incorporated with this Act, and in construing those Acts for the purposes of this subsection this Act shall be deemed to be the special Act, and the highway authority to be the promoters of the undertaking or company, as the case may require, and the word 'land' shall have the meaning assigned to it by section 50(1) of this Act”.

63 Provisions relating to acquisition of new rights

(1) Subject to the provisions of this section, the Lands Clauses Consolidation (Scotland) Act 1845 and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply subject to any necessary modifications to the compulsory acquisition under any enactment of a right in or over land by the creation of a new right as they apply to the compulsory acquisition of land under the enactment in question.

(2) Section 61 of the said Act of 1845 (estimation of purchase money and compensation) shall apply to the compulsory acquisition of such a right as if for the words from "value " to " undertaking " there were substituted the words " extent (if any) to which the value of the land in or over which the right is to be acquired is depreciated by the acquisition of the right ".

(3) Paragraph 4 of Schedule 2 to the said Act of 1947 (protection for vendor against severance of house, garden, etc.) shall apply to the compulsory acquisition of such a right as if at the end there were added the following sub-paragraph—

“(2) In considering the extent of any material detriment to a house, building or manufactory or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal for Scotland shall have regard not only to the right which is to be acquired in or over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”

(4) Nothing in this section shall affect the operation of any enactment which makes specific provision to the like effect as the provisions of this section.