



# 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 [<sup>F1</sup>or (as the case may be) notice of intention to resume land], 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
  - <sup>F2</sup>[(b) either—
    - (i) section 22(1) of the Agricultural Holdings (Scotland) Act 1991 does not apply by virtue of subsection (2)(b) of that section; or
    - (ii) the Scottish Land Court have consented to the notice on the ground set out in section 24(1)(e) of that Act]<sup>F3</sup>, or the resumption is for a non-agricultural purpose under section 17(1)(a) of the Agricultural Holdings (Scotland) Act 2003.]
- (2) If the person served with the notice to quit [<sup>F4</sup>or (as the case may be) notice of intention to resume land] 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 <sup>M1</sup>Lands Clauses Consolidation (Scotland) Act 1845 (compensation for tenants from year to year, etc.) and [<sup>F5</sup>either section 56 of the Agricultural Holdings (Scotland) Act 1991 or (as the case may be) section 54(1) to (3) of the Agricultural Holdings (Scotland) Act 2003] shall have effect as if the notice to quit [<sup>F4</sup>or (as the case may be) notice of intention

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to resume land] had not been served and the acquiring authority had taken possession of the holding in pursuance of a notice of entry under paragraph 3 of Schedule 2 to the <sup>M2</sup>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 [<sup>F4</sup>or (as the case may be) notice of intention to resume land]; and

[<sup>F6</sup>(b) either (as the case may be)–

(i) the provisions of the Agricultural Holdings (Scotland) Act 1991 relating to the compensation to a tenant on the termination of his tenancy and sections 54 and 58(1) and (2) of that Act (additional payment and compensation in cases of notice to quit); or

(ii) the provisions of the Agricultural Holdings (Scotland) Act 2003 relating to compensation to a tenant on the termination of his tenancy,

shall not have effect in relation to the termination of the tenancy by reason of the notice to quit or (as the case may be) the notice of intention to resume land].

- (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 [<sup>F7</sup>or (as the case may be) notice of intention to resume land] part of an agricultural holding as it has effect in relation to a notice to quit [<sup>F7</sup>or (as the case may be) notice of intention to resume land] 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 [<sup>F8</sup>section 30 of the Agricultural Holdings (Scotland) Act 1991] (tenant's right to treat notice to quit part of holding as notice to quit entire holding) [<sup>F9</sup>or, as the case may be, to give notice under section 17(3) of the Agricultural Holdings (Scotland) Act 2003 (resumption of land by landlord)] .
- (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 [<sup>F10</sup>and the reference in that subsection to an authority possessing compulsory purchase powers includes a person or body of persons who would be an authority possessing compulsory purchase powers if the landlord's interest were not an interest in Crown land (as defined by [<sup>F11</sup>section 242(1) of the Town and Country Planning (Scotland) Act 1997]).].
- (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 [<sup>F12</sup>or (as the case may be) a notice of intention to resume land] 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.

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- (9) This section shall not apply where the person in occupation of an agricultural holding is a crofter, landholder or statutory small tenant.

#### Textual Amendments

- F1** Words in s. 55(1) inserted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 8(d)(i)**
- F2** S. 55(1)(b) substituted (25.09.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 36** (with s. 45(3), Sch. 12 para. 3).
- F3** Words in s. 55(1)(b) inserted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 8(d)(ii)**
- F4** Words in s. 55(2) inserted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 8(d)(iii)**
- F5** Words in s. 55(2)(a) substituted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 8(d)(iv)**
- F6** S. 55(2)(b) substituted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 8(d)(v)**
- F7** Words in s. 55(5) inserted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 8(d)(vi)**
- F8** Words in s. 55(6) substituted (25.09.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 36(d)** (with s. 45(3), Sch. 12 para. 3).
- F9** Words in s. 55(6) inserted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 8(d)(vii)**
- F10** Words in s. 55(7) inserted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2, Pt. I**) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 79, **Sch. 17, Pt. I para. 15** (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F11** Words in s. 55(7) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 21(11)**
- F12** Words in s. 55(8) inserted (27.11.2003) by [The Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **sch. para. 8(d)(viii)**

#### Marginal Citations

- M1** 1845 c. 19.  
**M2** 1947 c. 42.

**Changes to legislation:**

There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Section 55.