

Changes to legislation: Agricultural Holdings (Scotland) Act 1991, SCHEDULE 8 is up to date with all changes known to be in force on or before 28 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 8

Section 57.

SUPPLEMENTARY PROVISIONS WITH RESPECT TO PAYMENTS UNDER SECTION 56

Modifications etc. (not altering text)

- C1** Sch. 8 modified (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 54(6), 95(3), 95(4)** (with s. 95(2)); [S.S.I. 2003/548](#), art. 2(d) (with Sch.)

- 1 Subject to paragraph 4 of this Schedule, any dispute with respect to any sum which may be or become payable by virtue of section 56(1) of this Act shall be referred to and determined by the Lands Tribunal for Scotland.
- 2 If in any case the sum to be paid by virtue of the said section 56(1) to the tenant of an agricultural holding or to a statutory small tenant by an acquiring authority would, apart from this paragraph and paragraph 3 of this Schedule, fall to be ascertained in pursuance of section 54(2) of this Act by reference to the rent of the holding at a rate which was not—
- determined by [^{F1}the Land Court] under section 13 or 15 of this Act;
 - determined by [^{F2}arbitration by virtue of section 61(1)] of this Act; or
 - in the case of a statutory small tenant, fixed by the Scottish Land Court in pursuance of section 32(7) and (8) of the 1911 Act;
- and which the authority consider is unduly high, the authority may make an application to the Lands Tribunal for Scotland for the rent to be considered by the tribunal;

Textual Amendments

- F1** Words in Sch. 8 para. 2 substituted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), s. 95(3)(4), **Sch. para. 45(a)(i)** (with s. 95(2)); [S.S.I. 2003/548](#), art. 2(i) (with Sch.)
- F2** Words in Sch. 8 para. 2 substituted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), s. 95(3)(4), **Sch. para. 45(a)(ii)** (with s. 95(2)); [S.S.I. 2003/548](#), art. 2(i) (with Sch.)

- 3 Where, on an application under paragraph 2 above, the tribunal are satisfied that—
- the rent to which the application relates is not substantially higher than the rent which in their opinion would be determined for the holding in question [^{F3}by the Land Court or] on a reference to arbitration duly made in pursuance of—
 - section 13 of this Act; or
 - in the case of a statutory small tenancy, the equitable rent which in their opinion would be fixed by the Land Court under section 32 (7) and (8) of the 1911 Act;
- (hereafter in this paragraph referred to as “the appropriate rent”); or

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- (b) the rent to which the application relates is substantially higher than the appropriate rent but was not fixed by the parties to the relevant lease with a view to increasing the amount of any compensation payable, or of any sum to be paid by virtue of section 56(1) of this Act, in consequence of the compulsory acquisition or taking of possession of any land included in the holding,

they shall dismiss the application; and if the tribunal do not dismiss the application in pursuance of the foregoing provisions of this paragraph they shall determine that, in the case to which the application relates, the sum to be paid by virtue of section 56(1) of this Act shall be ascertained in pursuance of the said section 13 by reference to the appropriate rent instead of by reference to the rent to which the application relates.

Textual Amendments

F3 Words in Sch. 8 para. 3 inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\), s. 95\(3\)\(4\), Sch. para. 45\(b\)](#) (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with Sch.)

- 4 For the purposes of paragraph 3(a) above, section 13(1) of this Act shall have effect as if for the reference therein to the next ensuing day there were substituted a reference to the date of the application referred to in paragraph 3(a) above.
- 5 The enactments mentioned in paragraph 6 of this Schedule shall, subject to any necessary modifications, have effect in their application to such an acquiring of an interest or taking of possession as is referred in section 56(1) of this Act (hereafter in this paragraph referred to as “the relevant event”)—
- (a) in so far as those enactments make provision for the doing, before the relevant event, of any thing connected with compensation (including in particular provision for determining the amount of the liability to pay compensation or for the deposit of it in a Scottish bank or otherwise), as if references to compensation, except compensation for damage or injurious affection, included references to any sum which will become payable by virtue of section 56 of this Act in consequence of the relevant event; and
- (b) subject to sub-paragraph (a) above, as if references to compensation (except compensation for damage or injurious affection) included references to sums payable or, as the context may require, to sums paid by virtue of section 56 of this Act in the consequence of the relevant event.
- 6 The enactments aforesaid are—
- (a) sections 56 to 60, 62, 63 to 65, 67 to 70, 72, 74 to 79, 83 to 87, 114, 115 and 117 of the ^{M1}Lands Clauses (Scotland) Act 1845;
- (b) paragraph 3 of Schedule 2 to the ^{M2}Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947;
- (c) Parts I and II and section 40 of the ^{M3}Land Compensation (Scotland) Act 1963;
- (d) paragraph 4 of Schedule 6 to the ^{M4}New Towns (Scotland) Act 1968;
- (e) any provision in any local or private Act, in any instrument having effect by virtue of an enactment, or in any order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure, corresponding to a provision mentioned in sub-paragraph (a), (b) or (d) above.

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Marginal Citations

M1 1845 c.19.

M2 1947 c.42.

M3 1963 c. 51.

M4 1968 c. 16.

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Changes and effects yet to be applied to :

- Sch. 8 para. 2(a) words inserted by [2016 asp 18 Sch. 2 para. 11\(3\)\(a\)\(ii\)](#)
- Sch. 8 para. 2(a) words repealed by [2016 asp 18 Sch. 2 para. 11\(3\)\(a\)\(i\)](#)
- Sch. 8 para. 3(a)(i) words substituted by [2016 asp 18 Sch. 2 para. 11\(3\)\(b\)\(i\)](#)
- Sch. 8 para. 3(a)(i) words substituted by [2016 asp 18 Sch. 2 para. 11\(3\)\(b\)\(ii\)](#)
- Sch. 8 para. 4 words substituted by [2016 asp 18 Sch. 2 para. 11\(3\)\(c\)](#)