



Agricultural Holdings (Scotland) Act 1949

1949 CHAPTER 75

General

88 Expenses and receipts

- (1) All expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.
- (2) All sums received by the Secretary of State under this Act, including sums received on his behalf by any person or body of persons exercising functions on behalf of the Secretary of State, shall be paid into the Exchequer.

89 Provisions as to 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 as aforesaid unless twenty-four hours notice of the intended entry, has been given to the occupier of the land.
- (4) Save as provided by the last foregoing subsection, admission to any land shall not be demanded as of right in the exercise of any such power as aforesaid 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 fourteen days and beginning at least twenty-four hours after the giving of the notice and the entry is made on the land during the period specified in the notice.

- (5) Any person who obstructs any person authorised by the Secretary of State exercising any such power as aforesaid shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence.

90 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 post in a registered letter.
- (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 given to or served on the secretary or clerk of the company or body.
- (3) For the purposes of this section and of section twenty-six of the Interpretation Act, 1889, 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 theretofore 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 entitled to receive such rents and profits, 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.

91 Prohibition of appeal from sheriff substitute

Where any jurisdiction committed by this Act to the sheriff is exercised by the sheriff substitute, there shall be no appeal to the sheriff,

92 Revocation and variation of orders

Any power conferred on the Secretary of State by this Act to make an order shall include a power, exercisable in the like manner and subject to the like conditions, to revoke or vary the order.

93 Interpretation

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—
- " absolute owner " means the owner or person capable of disposing by disposition or otherwise of the fee simple or dominium utile of the whole interest of or in land, although the land, or his interest therein, is burdened, charged, or encumbered;
- " agricultural holding " has the meaning assigned to it by section one of this Act; " agricultural unit " means land which is an agricultural unit for the purposes of the Agriculture (Scotland) Act, 1948;

" agriculture " includes horticulture, fruit growing, seed growing, dairy farming and 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;

" Defence Regulations " means Regulations made under the Emergency Powers (Defence) Acts, 1939 and 1940;

" 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 oughts 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;

" former enactment relating to agricultural holdings " means Part I of the Agriculture (Scotland) Act, 1948, Part II of the Small Landholders and Agricultural Holdings (Scotland) Act, 1931, the Agricultural Holdings (Scotland) Act, 1923, and any enactment repealed by the last-mentioned Act;

" Land Court " means the Scottish Land Court;

" landlord " means any person for the time being entitled to receive the rents and profits or to take possession of any agricultural holding, and includes the executor, administrator, assignee, heir-at-law, legatee, disponent, next-of-kin, guardian, curator bonis or trustee in bankruptcy, of a landlord;

" 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;

" new improvement " has the meaning assigned to it by subsection (2) of section forty-seven of this Act;

" old improvement " has the meaning assigned to it by subsection (2) of section thirty-six of this Act;

" 1923 Act improvement " and " 1931 Act improvement " have the meanings respectively assigned to them by subsection (1) of section thirty-six of this Act;

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

" pasture " includes meadow ;

" 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 and includes the executor, administrator, assignee, heir-at-law, legatee, donee, next-of-kin, guardian, curator bonis, or trustee in bankruptcy, of a tenant;

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

" Whitsunday " and " Martinmas " in relation to any lease entered into on or after the first day of November, nineteen hundred and forty-eight, mean respectively the twenty-eighth day of May and the twenty-eighth day of November.

- (2) The provisions of the Fifth and Sixth Schedules to the 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 have effect for the purposes of this Act as they have effect for the purposes of that Act.
- (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 in this Act to the use of land for agriculture include, in relation to land forming part of an agricultural unit, references to any use of the land in connection with the farming of the unit.
- (5) 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.
- (6) The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Act in respect of compensation for improvements or under any agreement made in pursuance of this Act.
- (7) 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.

94 Amendments of other Acts

The enactments specified in the Seventh Schedule to this Act shall have effect subject to the amendments specified in that Schedule.

95 Construction of references in other Acts to holdings as defined by the Agricultural Holdings (Scotland) Act, 1923

- (1) References, in whatever terms, in any enactment, other than an enactment contained in this Act, in the Agricultural Holdings (Scotland) Acts, 1923 and 1931, or in Part I of the 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 as defined by section one of this Act.
- (2) The foregoing subsection shall not apply to an enactment in so far as its operation is material for the purposes of the provisions of the said Acts of 1923 and 1931 or the said Act of 1948 to the extent to which they are excepted from the repeal of enactments effected by this Act.

96 Improvements carried out before 1909

The compensation in respect of an improvement made or begun before the first day of January, nineteen hundred and nine (being the date of the commencement of the Agricultural Holdings (Scotland) Act, 1908), or made upon an agricultural holding held under a lease, other than a lease from year to year, current on the first day of January, eighteen hundred and eighty-four, shall be such (if any) as could have been claimed if the Agricultural Holdings (Scotland) Acts, 1923 to 1948, and this Act had not passed, but the procedure for the ascertainment and recovery thereof shall be such as is provided by this Act, and the amount so ascertained shall be payable, recoverable and chargeable as if it were compensation under this Act.

97 Repeal of enactments

Subject to the provisions of the next following section, the enactments specified in the first and second columns of the Eighth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

98 Provisions as to tenants quitting before commencement of this Act, or thereafter in consequence of notice given, etc., before 1st November, 1948

In a case where the tenant of an agricultural holding has quitted the holding before the commencement of this Act, or quits it after the commencement of this Act in consequence of a notice to quit given (whether by him or his landlord) before the first day of November, nineteen hundred and forty-eight, or in consequence of a renunciation of the tenancy in pursuance of an agreement in writing made before that day, the provisions of this Act, so far as relating to the rights of landlords and tenants to compensation (including the provisions relating to the determination of compensation where a holding is divided, the apportionment of compensation in such a case and the payment of expenses caused by such an apportionment), and the payment and recovery of compensation shall not apply, and in lieu thereof the enactments specified in the Eighth Schedule to this Act, so far as relating to the matters aforesaid, shall continue to apply and shall accordingly be excepted from the operation of the last foregoing section.

99 General savings

- (1) Nothing in this Act shall affect any order, rule, regulation, record, appointment, application or complaint made, approval, consent or direction given, proceeding or assignation taken, notice served or given, certificate issued, condition imposed or thing done under a former enactment relating to agricultural holdings but any such order, rule, regulation, record, appointment, application, complaint, approval, consent, direction, proceeding, assignation, notice, certificate, condition, or thing which is in force at the commencement of this Act, shall continue in force, and so far as it could have been made, given, taken, served, issued, imposed or done under the corresponding provision of this Act shall (save where it is material only for the purposes of the enactments specified in the Eighth Schedule to this Act so far as continued in force by virtue of the last foregoing section) have effect as if it had been made, given, taken, served, issued, imposed or done under that corresponding provision:

Provided that this subsection shall not apply to any such regulations or directions as are mentioned in the two next following subsections.

- (2) Nothing in this Act shall affect any regulations having effect for the purposes of section seventy-one or eighty of the Agriculture (Scotland) Act, 1948, which are in force at the commencement of this Act, but any such regulations shall continue to have effect for those purposes and shall also have effect for the purposes of sections seventy-two or seventy-one of this Act, as the case may be, as if they had been made by virtue of those sections respectively.
- (3) Nothing in this Act shall affect any direction given under subsection (1) of section five of the Agricultural Holdings (Scotland) Act, 1923, or the corresponding provision of an enactment repealed by that Act, by the Board or the Department of Agriculture for Scotland or by the Secretary of State, but any such direction which is in force at the commencement of this Act shall continue in force and shall (save where it is material only for the purposes of the enactments specified in the Eighth Schedule to this Act so far as continued in force by virtue of the last foregoing section) have effect as if it were a direction of the Secretary of State under subsection (1) of section sixty-six of this Act.
- (4) Any notice deemed to have been given by the Secretary of State under the Second Schedule to the Agriculture (Scotland) Act, 1948, shall be deemed to have been given under subsection (2) of section twenty-eight of this Act.
- (5) Any provision of the Agricultural Holdings (Scotland) Act, 1923, or Part I of the Agriculture (Scotland) Act, 1948, or of any other enactment which (whatever its terms) has the effect of requiring a matter to be determined by arbitration under the said Act of 1923, shall be construed as having the effect of requiring that matter to be determined by arbitration under this Act, and an arbitration under the said Act of 1923 uncompleted at the commencement of this Act may be carried on and completed as if it had been begun under this Act:

Provided that, in the application of the Sixth Schedule to this Act to an arbitration for the purposes of the enactments specified in the Eighth Schedule to this Act so far as continued in force by virtue of the last foregoing section, paragraph 12 of the said Sixth Schedule shall have effect with the substitution, for references to this Act, of references to those enactments.

- (6) Notwithstanding subsection (1) of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals) any reference which is or is to be construed as a reference to a former enactment relating to agricultural holdings or an enactment repealed by the Agricultural Holdings (Scotland) Act, 1908 (other than a reference in such an enactment or this Act- or such a reference as is mentioned in subsection (1) of section ninety-five of this Act or adapted by the last foregoing subsection) shall, so far as the operation of the enactment in which the reference occurs is material for the purposes of the enactments specified in the Eighth Schedule to this Act so far as continued in force by virtue of the last foregoing section, be construed in like manner as if this Act had not passed, and otherwise shall (save where the context otherwise requires) be construed as a reference to the corresponding provision of this Act.
- (7) Any document referring to a former enactment relating to agricultural holdings or an enactment repealed by the Agricultural Holdings (Scotland) Act, 1908, shall, so far as it or its operation is material for the purposes of the enactment specified in the Eighth Schedule to this Act so far as continued in force by virtue of the last foregoing section, be construed in like manner as if this Act had not passed, and otherwise shall be construed as referring to the corresponding provision of this Act.
- (8) Nothing in this Act shall affect the provisions of the Allotments (Scotland) Act, 1922, or be construed as repealing—
- (a) section twenty-six of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which excludes the operation of the Agricultural Holdings (Scotland) Acts, 1923 and 1931, in relation to certain tenancies granted during the war period);
 - (b) section fifteen of the Agriculture (Miscellaneous Provisions) Act, 1943 (which relieves occupiers of agricultural land from liabilities and loss of compensation resulting from directions given under Defence Regulations); or
 - (c) any enactment contained in Part II of the Agriculture (Scotland) Act, 1948.
- (9) Any person holding office or acting or serving under or by virtue of a former enactment relating to agricultural holdings shall continue to hold his office or to act or serve as if he had been appointed by or by virtue of the corresponding provision of this Act.
- (10) Notwithstanding subsection (2) of section thirty-eight of the Interpretation Act, 1889, rights to compensation conferred by this Act shall be in lieu of rights to compensation conferred by any former enactment relating to agricultural holdings.
- (11) Save to the extent to which it is otherwise provided by subsections (6) and (10) of this section, the mention of particular matters in this section shall not be taken to affect the general application of section thirty-eight of the Interpretation Act, 1889.

100 Saving for other rights, etc.

Subject to the provisions of subsection (2) of section twelve and subsection (1) of section sixty-eight of this Act in particular, and to any other provision of this Act which otherwise expressly provides, nothing in this Act shall prejudicially affect any power, right or remedy of a landlord, tenant or other person, vested in or exercisable by him by virtue of any other Act or law, or under any custom of the country, or otherwise, in respect of a lease or other contract, or of any improvements, deteriorations, away-going crops, fixtures, tax, rate, teind, rent or other thing.

101 Short title and extent

- (1) This Act may be cited as the Agricultural Holdings (Scotland) Act, 1949.
- (2) This Act shall extend to Scotland only.