



Agricultural Holdings (Scotland) Act 1991

1991 CHAPTER 55

PART VIII

MISCELLANEOUS

73 Power of Secretary of State to vary Schedules 5 and 6

- (1) The Secretary of State may, after consultation with persons appearing to him to represent the interests of landlords and tenants of agricultural holdings, by order vary the provisions of Schedules 5 and 6 to this Act.
- (2) An order under this section may make such provision as to the operation of this Act in relation to tenancies current when the order takes effect as appears to the Secretary of State to be just having regard to the variation of the said Schedules effected by the order.
- (3) Nothing in any order made under this section shall affect the right of a tenant to claim, in respect of an improvement made or begun before the date on which such order comes into force, any compensation to which, but for the making of the order, he would have been entitled.
- (4) Orders under this section shall be made by statutory instrument which shall be of no effect unless approved by resolution of each House of Parliament.

74 Power of limited owners to give consents, etc.

The landlord of an agricultural holding, whatever may be his estate or interest in the holding, may for the purposes of this Act give any consent, make any agreement, or do or have done to him any act which he might give or make or do or have done to him if he were the owner of the dominium utile of the holding.

75 Power of tenant and landlord to obtain charge on holding

- (1) Where any sum has become payable to the tenant of an agricultural holding in respect of compensation by the landlord and the landlord has failed to discharge his liability

therefor within one month after the date on which the sum became payable, the Secretary of State may, on the application of the tenant and after giving not less than 14 days' notice of his intention so to do to the landlord, create, where the landlord is the owner of the dominium utile of the holding, a charge on the holding, or where the landlord is the lessee of the holding under a lease recorded under the Registration of Leases (Scotland) Act 1857 a charge on the lease for the payment of the sum due.

- (2) For the purpose of creating a charge of a kind referred to in subsection (1) above, the Secretary of State may make in favour of the tenant a charging order charging and burdening the holding or the lease, as the case may be, with an annuity to repay the sum due together with the expenses of obtaining the charging order and recording it in the General Register of Sasines or registering it in the Land Register of Scotland.
- (3) Where the landlord of an agricultural holding, not being the owner of the dominium utile of the holding, has paid to the tenant of the holding the amount due to him under this Act, or under custom or agreement, or otherwise, in respect of compensation for an improvement or in respect of compensation for disturbance, or has himself defrayed the cost of an improvement proposed to be executed by the tenant, the Secretary of State may, on the application of the landlord and after giving not less than 14 days notice to the absolute owner of the holding, make in favour of the landlord a charging order charging and burdening the holding with an annuity to repay the amount of the compensation or of the cost of the improvement, as the case may be, together with the expenses of obtaining the charging order and recording it in the General Register of Sasines or registering it in the Land Register of Scotland.
- (4) Section 65(2), (4) and (6) to (10) of the Water (Scotland) Act 1980 shall, with the following and any other necessary modifications, apply to any such charging order as is mentioned in subsection (2) or (3) above, that is to say—
 - (a) for any reference to an islands or district council there shall be substituted a reference to the Secretary of State;
 - (b) for any reference to the period of 30 years there shall be substituted—
 - (i) where subsection (1) above applies, a reference to such period (not exceeding 30 years) as the Secretary of State may determine;
 - (ii) in the case of a charging order made in respect of compensation for, or of the cost of, an improvement, a reference to the period within which the improvement will, in the opinion of the Secretary of State, have become exhausted;
 - (c) for references to Part V of the said Act of 1980 there shall be substituted references to this Act.
- (5) Where subsection (3) above applies, an annuity constituted a charge by a charging order recorded in the General Register of Sasines or registered in the Land Register of Scotland shall be a charge on the holding specified in the order and shall rank after all prior charges heritably secured thereon.
- (6) The creation of a charge on a holding under this section shall not be deemed to be a contravention of any prohibition against charging or burdening contained in the deed or instrument under which the holding is held.

76 Power of land improvement companies to advance money

Any company incorporated by Parliament or incorporated under the Companies Act 1985 or under the former Companies Acts within the meaning of that Act and having

power to advance money for the improvement of land, or for the cultivation and farming of land, may make an advance of money upon a charging order duly made and recorded or registered under this Act, on such terms and conditions as may be agreed upon between the company and the person entitled to the order.

77 Appointment of guardian to landlord or tenant

Where the landlord or the tenant of an agricultural holding is a pupil or a minor or is of unsound mind, not having a tutor, curator or other guardian, the sheriff, on the application of any person interested, may appoint to him, for the purposes of this Act, a tutor or a curator, and may recall the appointment and appoint another tutor or curator if and as occasion requires.

78 Validity of consents, etc.

It shall be no objection to any consent in writing or agreement in writing under this Act signed by the parties thereto or by any persons authorised by them that the consent or agreement has not been executed in accordance with the enactments regulating the execution of deeds in Scotland.