

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Agriculture Act 1958, Cross Heading: Agricultural Holdings (Scotland) Act, 1949. (See end of Document for details)

SCHEDULES

FIRST SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

PART II

SCOTLAND

Agricultural Holdings (Scotland) Act, 1949

32 For section nine there shall be substituted the following section—

- (1) Where under the lease of an agricultural holding, whether entered into before or after the commencement of this Act, provision is made for the maintenance of specified land, or a specified proportion of the holding, as permanent pasture, the landlord or tenant may, by notice in writing served on his tenant or landlord, demand a reference to arbitration under this Act of the question whether it is expedient in order to secure the full and efficient farming of the holding that the amount of land required to be maintained as permanent pasture should be reduced.
- (2) On a reference under the foregoing subsection the arbiter may by his award—
 - (a) direct that the lease shall have effect subject to such modifications of the provision thereof as to which is to be maintained as permanent pasture or is to be treated as arable land, and as to cropping, as may be specified in that direction; and
 - (b) if he gives a direction reducing the area of land which under the lease is to be maintained as permanent pasture, order that the lease shall have effect as if it provided that on quitting the holding on the termination of the tenancy the tenant should leave as permanent pasture, or should leave as temporary pasture sown with seeds mixture of such kind as may be specified in the order, such area of land (in addition to the area of land required by the lease, as modified by the direction, to be maintained as permanent pasture) as may be so specified, so however that the area required to be left as aforesaid shall not exceed the area by which the land required by the lease to be maintained as permanent pasture has been reduced by virtue of the direction.”

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Modifications etc. (not altering text)

- C1** The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 33 In section twelve, in subsection (3) (which provides for a question whether a tenant has so exercised his rights under subsection (!) of that section as to injure or deteriorate his holding to be determined for certain purposes by the Secretary of State) for the words from “determined by the Secretary of State” to “a certificate of the Secretary of State” there shall be substituted the words “determined by arbitration; and a certificate of the arbiter”; and in subsection (5) after the words “section nine of this Act” there shall be inserted the words “or an arbiter has directed under the said section nine”.

Modifications etc. (not altering text)

- C2** The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 34 In section twenty-four (which relates to the giving of notices to quit) in paragraph (a) of subsection (6) after the words “other purposes” there shall be inserted the words “(not being agricultural purposes)”.

Modifications etc. (not altering text)

- C3** The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 35 On the appointed day, in section twenty-five—
- (a) for references to the Secretary of State there shall be substituted references to the Land Court;
 - (b) paragraph (a) of subsection (2) shall cease to have effect; and
 - (c) at the end of paragraph (b) of subsection (2) there shall be added the words “and it is stated in the notice that it is given by reason of the matter aforesaid”.

Modifications etc. (not altering text)

- C4** The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced

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- 36 On the appointed day, in section twenty-six—
- (a) subsections (2) to (4) shall cease to have effect;
 - (b) in subsection (5) the words “the Secretary of State or” in each place where they occur shall be omitted; and
 - (c) in subsection (6) for the reference to the Secretary of State there shall be substituted a reference to the Land Court.

Modifications etc. (not altering text)

- C5** The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 37 On the appointed day, for section twenty-seven there shall be substituted the following section—
- (1) An application by a landlord for the consent of the Land Court under section twenty-five of this Act to the operation of a notice to quit shall be made within one month after service on the landlord by the tenant of a counter-notice requiring that subsection (1) of that section shall apply to the notice to quit.
 - (2) A tenant to whom has been given a notice to quit in connection with any question arising under subsection (2) of section twenty-five of this Act shall, if he requires such question to be determined by arbitration under this Act, give notice to the landlord to that effect within one month after the notice to quit has been served on him; and where the award of the arbitrator in an arbitration so required is such that the provisions of subsection (1) of section twenty-five of this Act would have applied to the notice to quit if a counter-notice had been served within the period limited by that subsection the period within which a counter-notice may be served under that subsection shall be extended up to the expiration of one month from the issue of the arbitrator's award.
 - (3) Where such an arbitration as is referred to in the last foregoing subsection has been required by the tenant, or where an application has been made to the Land Court for their consent to the operation of a notice to quit, the operation of the notice to quit shall be suspended until the issue of the arbitrator's award or of the decision of the Land Court, as the case may be.
 - (4) Where the decision of the Land Court giving their consent to the operation of a notice to quit, or the award of the arbitrator in such an arbitration as is referred to in subsection (2) of this section, is issued at a date later than six months before the date on which the notice to quit is expressed to take effect, the Land Court, on application made to them in that behalf at any time not later than one month after the issue of the decision or award aforesaid, may postpone the operation of the notice to quit for a period not exceeding twelve months.

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- (5) If the tenant of an agricultural holding receives from the landlord notice to quit the holding or a part thereof and in consequence thereof gives to a sub-tenant notice to quit that holding or part, the provisions of subsection (1) of section twenty-five of this Act shall not apply to the notice given to the sub-tenant; but if the notice to quit given to the tenant by the landlord does not have effect, the notice to quit given as aforesaid by the tenant or the sub-tenant shall not have effect. For the purposes of this subsection a notice to quit part of the holding which under the provisions of section thirty-three of this Act is accepted by the tenant as a notice to quit the entire holding shall be treated as a notice to quit the holding.
- (6) Where notice is served on the tenant of an agricultural holding to quit the holding or a part thereof, being a holding or part which is subject to a sub-tenancy, and the tenant serves on the landlord a counter-notice in accordance with the provisions of subsection (1) of section twenty-five of this Act, the tenant shall also serve on the sub-tenant notice in writing that he has served such counter-notice on the landlord, and the sub-tenant shall be entitled to be a party to any proceedings before the Land Court for their consent to the notice to quit.”

Modifications etc. (not altering text)

- C6** The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 38 On the appointed day, for section twenty-eight there shall be substituted the following section—

For the purposes of paragraph (d) of subsection (2) of section twenty-five of this Act, the landlord of an agricultural holding may apply to the Land Court for a certificate that the tenant is not fulfilling his responsibilities to farm in accordance with the rules of good husbandry, and the Land Court, if satisfied that the tenant is not fulfilling his said responsibilities, shall grant such a certificate.”

Modifications etc. (not altering text)

- C7** The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 39 Section twenty-nine (which empowers the Secretary of State to give to the tenant of an agricultural holding, being a holding in respect of which a certificate of bad husbandry under section twenty-five of the Scottish Act of 1949 is in force,

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directions for securing that the holding does not further deteriorate before the termination of the tenancy) shall cease to have effect.

Modifications etc. (not altering text)

- C8** The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

40 For section thirty there shall be substituted the following section—

“30 Penalty for breach of condition accompanying consent to notice to quit.

(1) Where, on giving consent under section twenty-five of this Act to the operation of a notice to quit an agricultural holding or part of an agricultural holding, the Land Court imposed a condition under section twenty-six of this Act for securing that the land to which the notice to quit related would be used for the purpose for which the landlord proposed to terminate the tenancy, and it is proved, on an application to the Land Court on behalf of the Crown—

- (a) that the landlord has failed to comply with the condition within the period allowed thereby, or
- (b) that the landlord has acted in contravention of the condition,

the Land Court may by order impose on the landlord a penalty of an amount not exceeding two years' rent of the holding at the rate at which rent was payable immediately before the termination of the tenancy, or, where the notice to quit related to a part only of the holding, of an amount not exceeding the proportion of the said two years' rent which it appears to the Land Court is attributable to that part.

(2) A penalty imposed under this section shall be a debt due to the Crown and shall, when recovered, be paid into the Exchequer.”

Modifications etc. (not altering text)

- C9** The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

41 On the appointed day, in section fifty-two (which empowers the Secretary of State to approve the carrying out by the tenant of certain long-term improvements)—

- (a) for references to the Secretary of State there shall be substituted references to the Land Court;
- (b) in subsection (2) the words from “after giving notice” to “so to do”, the words from “after affording” to “appointed by the Secretary of State” and the words from “and in either case” to the end of the subsection, shall be omitted; and

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- (c) in subsection (4) the words from “after affording” to “appointed by the Secretary of State” shall be omitted.

Modifications etc. (not altering text)

C10 The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 42 In section sixty-three, in subsection (1), for the words “paragraph(ii) of section nine” there shall be substituted the words “paragraph(b) of subsection (2) of section nine”.

Modifications etc. (not altering text)

C11 The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 43 On the appointed day, in section sixty-six (which empowers the Secretary of State to direct that, for the purposes of certain improvements to be carried out by the tenant, an agricultural holding shall be treated as a market garden)—
- (a) for references to the Secretary of State there shall be substituted references to the Land Court; and
- (b) in subsection (1) the words from “and after affording” to “appointed by the Secretary of State” shall be omitted.

Modifications etc. (not altering text)

C12 The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 44 On the appointed day, sections seventy-one and seventy-two (which respectively provide for representations to the Secretary of State as to the taking of action by him, and for proposals as to such action to be referred to the Land Court) shall cease to have effect.

Modifications etc. (not altering text)

C13 The text of Sch. 1 paras. 1, 2, 3(b)–(e), 5(2)(4), 9(a), 12, 26, 27(a), 29–34, 35(b)(c), 36(a)(b), 37–40, 41(b)(c), 42, 43(b), 44, 45(b)(c), 46 is in the form in which it was originally enacted: it was not reproduced

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