



Small Landholders and Agricultural Holdings (Scotland) Act 1931

1931 CHAPTER 44

PART II

AMENDMENT OF AGRICULTURAL HOLDINGS (SCOTLAND) ACTS

27 Amendment of principal Act as to compensation for improvements

The First Schedule to this Act shall be substituted for the First Schedule to the Agricultural Holdings (Scotland) Act, 1923, hereafter in this Act referred to as the principal Act.

28 Amendment of s. 3 of principal Act

- (1) Subsection (1) of section three of the principal Act (which subsection requires notice to be given to the landlord as to certain improvements) shall be amended by the substitution of six months for three months and of three months for two months.
- (2) Where the landlord of a holding to whom notice has been given by the tenant under subsection (1) of section three of the principal Act of intention to execute an improvement, gives notice to the tenant within one month after receiving the aforesaid notice that he objects to the making of the improvement or to the manner in which the tenant proposes to do the intended work, the matter may be referred on the application of either party to the Department who shall determine the same, and in any case where the landlord has so given notice of objection compensation shall not be payable in respect of the improvement unless the Department are satisfied that it ought to be carried out, and where the Department prescribe the manner in which it shall be carried out, unless it is carried out in accordance therewith.

29 Compensation in respect of temporary pasture

Where the tenant of a holding claims compensation in respect of temporary pasture laid down in accordance with paragraph (29) of Part III of the First Schedule to this Act,

and the laying down or the leaving at the termination of the tenancy of such pasture is in contravention of the provisions of the lease or of any agreement made by the tenant respecting the method of cropping the arable lands, the tenant shall be entitled to compensation notwithstanding any such contravention but in ascertaining the amount thereof the arbiter shall take into consideration any injury to or deterioration of the holding due to such contravention except in so far as the landlord shall have recovered damages in respect of such injury or deterioration.

30 Amendment of s. 10 of principal Act

Section ten of the principal Act shall in its application to any case where the lease has been entered into after the commencement of this Act have effect as if the following subsection were added thereto :—

“(2) This section shall not apply unless a record of the condition of the holding has been made under this Act or in respect of any matter arising before the date of the record so made.”

31 Amendment of s. 12 of principal Act

Paragraph (b) of subsection (7) of section twelve of the principal Act (which section relates to compensation for disturbance) shall cease to have effect as regards tenancies terminating more than one month after the commencement of this Act.

32 Amendment of principal Act as to matters referred to arbitration

The following provision shall be substituted for subsection (1) of section fifteen of the principal Act which relates to matters to be referred to arbitration):—

“(1) Any question or difference between the landlord and the tenant of a holding arising out of any claim by the tenant against the landlord for compensation under this Act or any Act by this Act repealed, or out of any claim by either party against the other for breach of contract or otherwise in respect of the holding or out of any claim by the landlord against the tenant for waste wrongly committed or permitted by the tenant, or as to the construction of the lease, and any other question or difference of any kind whatsoever between the landlord and the tenant arising out of the tenancy or in connection with the holding (not being a question or difference as to liability for rent) shall, whether such question or difference arises during the currency or on the termination of the tenancy, be determined by arbitration.”

33 Amendment of principal Act as to arbiters

Subsection (1) of section seventeen of the principal Act (which relates to the constitution of a panel of arbiters) shall be amended by the addition of the words " after consultation with the Board " after the words " Lord President of the Court of Session."

34 Determination of questions by Land Court in lieu of arbitration

Any question of difference between the landlord and the tenant of a holding which, under the principal Act or this Act, or under the lease is referred to arbitration may, if the landlord and the tenant so agree, in lieu of being determined in pursuance of subsection (1) of section sixteen of the principal Act, be determined by the Land

Court, and the Land Court shall, on the joint application of the landlord and the tenant, determine such question or difference accordingly.

35 Determination of matters relating to holdings belonging to Department

- (1) Where under any section of the principal Act or of this Act any matter is referred to the decision of the Department, such section shall in its application to a holding of which the Department are themselves the landlord have effect as if there were substituted for the Department, in the case of a holding which does not exceed fifty acres, or the rent of which does not exceed fifty pounds, the Land Court and, in the case of any other holding, an arbiter, and any provision in any such section for an appeal to an arbiter from the decision of the Department shall not apply.
- (2) The provisions of the principal Act as amended by this Act shall apply to any arbitration in pursuance of the foregoing subsection or with regard to a holding of which the Department are themselves the landlord, with the substitution of the sheriff for the Department.

36 Application of Small Landholders Acts to questions referred to Land Court under this Act

Where under this Act any question or difference is required to be determined by the Land Court, the provisions of the Small Landholders (Scotland) Acts, 1886 to 1919, with regard to the Land Court, shall with any necessary modifications apply for the purposes of such determination, in like manner as they apply for the purpose of the determination by the Land Court of matters referred to them under the last mentioned Acts.

37 Provision for case where part of holding resumed without notice

Where a landlord of a holding, in pursuance of a provision in that behalf contained in the lease, resumes possession of any part of the holding without giving notice of his intention so to do, the provisions of paragraphs (b) and (c) (exclusive of the proviso thereto) of section thirty of the principal Act shall apply in like manner as if notice to quit had been given under the said section with regard to the part of the holding so resumed, provided that in assessing the compensation payable to the tenant, and the reduction of rent, any benefit or relief allowed to the tenant under the lease in respect of the resumption shall be taken into consideration.

38 Application of sums recovered under fire insurance policy

Where the tenant of a holding is liable in payment of the whole or any part of the premium due under a fire insurance policy in the name of the landlord over any buildings or other subjects included in the lease of the holding and the landlord recovers any sum under such policy in respect of the destruction of, or damage to, the buildings or other subjects by fire, he shall be bound, unless the tenant otherwise agrees, to expend such sum on the rebuilding, repair, or restoration of the buildings or subjects so destroyed or damaged in such manner as may be agreed or as may be determined, failing agreement, by the Department.

39 Amendment of Second Schedule to principal Act

- (1) The following paragraph shall be substituted for paragraph 5 of the Second Schedule to the principal Act :—

“5 The arbiter shall make and sign his award within two months of his appointment or within such longer period as may, either before or after the expiry of the aforesaid, period be agreed to in writing by the parties, or be fixed by the Board.”

- (2) The following paragraph shall be added after paragraph fifteen of the Second Schedule to the principal Act :—

“15A It shall not be lawful to include in the expenses of and incidental to the arbitration and award, or to charge against any of the parties, any sum payable in respect of remuneration or expenses to any person appointed by the arbiter to act as clerk or otherwise to assist him in the arbitration unless such appointment was made after submission of the claim and answers to the arbiter and with either the consent of the parties to the arbitration or the sanction of the sheriff.”

40 Improvements executed prior to commencement of this Act

Notwithstanding anything in the foregoing provisions of this Act, the compensation in respect of an improvement made or begun before the commencement of this Act shall be such (if any) as could have been claimed if this Act had not passed.