



Agricultural Holdings (Scotland) Act 1949

1949 CHAPTER 75

Provisions as to leases

7 Variation of rent

- (1) Subject to the provisions of this section the landlord or the tenant of an agricultural holding may, whether the tenancy was created before or after the commencement of this Act, by notice in writing served on his tenant or his landlord demand a reference to arbitration of the question what rent should be payable in respect of the holding as from the next ensuing day on which the tenancy could have been terminated by notice to quit given at the date of demanding the reference, and the matter shall be referred accordingly.
- (2) On any reference under the last foregoing subsection the arbiter—
 - (a) shall not take into account any increase in the rental value of the holding which is due to improvements which have been executed thereon in so far as they were executed wholly or partly at the expense of the tenant (whether or not that expense has been or will be reimbursed by a grant out of moneys provided by Parliament) without any equivalent allowance or benefit made or given by the landlord in consideration of their execution, and have not been executed under an obligation imposed on the tenant by the terms of his lease, or to improvements which have been executed thereon by the landlord in so far as the landlord has received or will receive grants out of moneys provided by Parliament in respect of the execution thereof, or fix the rent at a higher amount than would have been properly payable if these improvements had not been so executed;
 - (b) shall not take into account the relief in respect of rates to occupiers of agricultural lands and heritages effected by the Local Government (Scotland) Act, 1929, nor the amounts recoverable by occupiers from owners under section forty-seven of that Act, nor any benefit that may accrue to the tenant from the operation of the Agricultural Marketing Act, 1931; and
 - (c) shall not fix the rent at a lower amount by reason of any dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the tenant.

Subject as aforesaid, the arbiter shall determine what rent should properly be payable in respect of the holding as from the day mentioned in the last foregoing subsection.

- (3) A reference to arbitration under subsection (1) of this section shall not be demanded in such circumstances that any increase or reduction of rent made in consequence thereof would take effect as from a date earlier than the expiration of five years from the latest in time of the following dates, that is to say—
- (a) the commencement of the tenancy, or
 - (b) the date as from which there took effect a previous increase or reduction of rent (whether made under this section or otherwise), or
 - (c) the date as from which there took effect a previous direction under this section that the rent should continue unchanged:

Provided that there shall be disregarded for the purposes of this subsection—

- (i) an increase or reduction of rent under subsection (3) of the last foregoing section ;
 - (ii) an increase of rent under subsection (1) of the next following section or such an increase as is referred to in subsection (2) of that section ;
 - (iii) a reduction of rent under section thirty-four of this Act, or under subsection (7) of section thirty-two of the Agriculture (Scotland) Act, 1948.
- (4) The continuous adoption by the tenant of a standard of farming or a system of farming more beneficial to the holding than the standard or system required by the lease or, in so far as no system of farming is so required, than the system of farming normally practised on comparable holdings in the district, shall be deemed, for the purposes of subsection (2) of this section, to be an improvement executed at his expense.