SCOTTISH STATUTORY INSTRUMENTS

2003 No. 583

LANDLORD AND TENANT

The Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003

Made - - - - 26th November 2003

Coming into force in accordance with article 1

The Scottish Ministers, in exercise of the powers conferred by sections 91(2)(b) and 92 of the Agricultural Holdings (Scotland) Act 2003(**1**) and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 91(5) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. This Order may be cited as the Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 and shall come into force on the day after the day on which it is made.

Amendments consequential to the Agricultural Holdings (Scotland) Act 2003

2. The Schedule to this Order, which makes amendments to enactments in consequence of the Agricultural Holdings (Scotland) Act 2003, has effect.

St Andrew's House, Edinburgh
26th November 2003

ROSS FINNIE
A member of the Scottish Executive

(**1**) 2003 asp 11.

SCHEDULE

Article 2

Consequential Amendments

Opencast Coal Act 1958 (c. 69)

1. The Opencast Coal Act 1958 is amended in accordance with paragraphs 2 to 7 below.

2. In section 14A (provisions as to agricultural tenancies in Scotland)(**2**)–

(a) in subsections (3), (4) and (5), in each place where it appears, for "the Scottish Act of 1991"(**3**), substitute "the Scottish Acts of 1991 and 2003";

(b) in subsection (6), immediately after "paragraph (b) of that subsection"(**4**), insert "or (as the case may be) section 17(1)(a) of the Scottish Act of 2003";

(c) in subsection (7), immediately after "shall not be treated as satisfied", insert ", or (as the case may be) the resumption shall not be considered to be for a non-agricultural purpose under section 17(1)(a) of the Scottish Act of 2003,";

(d) in subsection (8)–

(i) for "On a reference to arbitration under section 13 of the Scottish Act of 1991"(**5**), substitute "On a determination under section 13 of the Scottish Act of 1991 or (as the case may be) under section 9 of the Scottish Act of 2003,"; and

(ii) for "arbiter", substitute "Scottish Land Court or arbiter (as the case may be)"; and

(e) in subsection (9), immediately after "section 15 of the Scottish Act of 1991 (which relates to increases of rent for improvements carried out by the landlord)"(**6**), insert ", or (as the case may be) section 10 of the Scottish Act of 2003 (increase in rent: landlord's improvements),".

3. In section 24 (tenant's right to compensation for improvements and other matters), for paragraphs (a) and (b) of subsection (10)(**7**), substitute–

"(a) to the Act of 1986 and to sections 70 and 83(4) of that Act there shall be substituted respectively references–

(i) in the case of a 1991 Act tenancy within the meaning of the Scottish Act of 2003, to the Scottish Act of 1991 and to sections 44 and 62(3) of that Act; or

(ii) in the case of a short limited duration tenancy or a limited duration tenancy, (within the meaning of the Scottish Act of 2003) to the Scottish Act of 2003 and to section 53(1) of that Act;

(b) to subsections (1), (2) and (3) of section 69 of the Act of 1986 there shall be substituted respectively references–

(i) in the case of a 1991 Act tenancy within the meaning of the Scottish Act of 2003, to sections 34(5) and 35(4) and (5) of the Scottish Act of 1991 (as they apply to new improvements); or

(ii) in the case of a short limited duration tenancy or a limited duration tenancy (within the meaning of the Scottish Act of 2003), to sections 45(4) and 46 of the Scottish Act of 2003;".

(**2**) Section 14A was inserted by the Housing and Planning Act 1986 (c. 63), section 39(3) and Schedule 8, paragraph 5.
(**3**) These words were substituted by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 12(a) to (c).
(**4**) These words were amended by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 12(d).
(**5**) These words were amended by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 12(f).
(**6**) These words were amended by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 12(g).
(**7**) Subsections (10)(a) and (b) were substituted by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 13.

4. In section 26 (compensation for short-term improvements and related matters), for paragraph (b) of subsection (6)(**8**), substitute–

"(b) in subsection (3) of this section for the reference to the Act of 1986 there shall be substituted a reference to the Scottish Act of 1991 or, as the case may be, to the Scottish Act of 2003; and".

5. In subsection (2) of section 52 (general application to Scotland)–

(a) for the definition of "agricultural holding"(**9**), substitute–

""agricultural holding" means the land comprised in a lease constituting a 1991 Act tenancy within the meaning of the Scottish Act of 2003 or the land comprised in a lease constituting a short limited duration tenancy or a limited duration tenancy (within the meaning of that Act);"; and

(b) immediately after "the Scottish Act of 1991"(**10**), insert–

"the Scottish Act of 2003" means the Agricultural Holdings (Scotland) Act 2003 (asp 11).";

6. In paragraph 31 of the Sixth Schedule (application of compensation provisions to special cases), for the words from "and to section 2 of the Act of 1986 there shall be substituted respectively"(**11**) to the end of that paragraph, substitute "and to approval under section 2 of the Act of 1986 there shall be substituted respectively references to a lease falling within section 2(2)(a) of the Scottish Act of 1991 or (as the case may be) to section 3 of the Scottish Act of 2003, to a lease and to any short limited duration tenancy (within the meaning of the Scottish Act of 2003) of less than a year.".

7. In paragraph 25 of the Seventh Schedule (adjustments between landlords and tenants and in respect of mortgages and mining leases and orders)–

(a) for paragraph (i) of sub-paragraph (a)(**12**), substitute–

"(i) to the Act of 1986 and to sections 12, 13 and 84 of that Act there shall be substituted respectively references to (as the case may be)–

(A) the Scottish Act of 1991 and to sections 13, 15 and 61 of that Act; or

(B) the Scottish Act of 2003 and to sections 9, 10 and 77 or 78 of that Act; and

(ia) to section 23 of the Act of 1986 there shall be substituted a reference to section 10 of the Scottish Act of 1991; and"; and

(b) for sub-paragraph (b), substitute–

"(b) for references to an arbitrator there shall be substituted references to an arbiter or, as the case may be, to the Scottish Land Court.".

Land Compensation (Scotland) Act 1973 (c. 56)

8. In the Land Compensation (Scotland) Act 1973–

(a) for paragraph (c) of subsection (3) of section 31(right to farm loss payment where person displaced from agricultural unit)(**13**), substitute–

(**8**) Subsection (6)(b) was substituted by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 15.
(**9**) This definition was amended by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 18(a).
(**10**) This definition was substituted by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 18(b).
(**11**) These words were substituted by the Agricultural Holdings Act 1986 (c. 5), Schedule 14, paragraph 32, and amended by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 20.
(**12**) Sub-paragraph (a) was substituted by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 21.
(**13**) Section 31(3)(c) was amended by the Agricultural Holdings (Scotland) Act 1991 (c. 55), Schedule 11, paragraph 33.