

PROJET DE LOI

ENTITLED

The Agricultural Holdings (Improvements) (Guernsey) Law, 1965 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XX, p. 102; as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Arbitration (Guernsey) Law, 2016 (No. ** of 2016).

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- | | |
|---------|--------------------|
| Part I | Improvements. |
| Part II | Acts of husbandry. |

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The Agricultural Holdings (Improvements) (Guernsey) Law, 1965

THE STATES, in pursuance of their Resolution of the twenty-fourth day of May, nineteen hundred and sixty-one, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

PART I

Compensation for scheduled improvements.

1. The tenant of an agricultural holding shall, subject to the provisions of this Part of this Law, be entitled on quitting the holding on the termination of the tenancy to recover from his landlord compensation, of such amount as shall be determined in accordance with the provisions of Part I of the Second Schedule to this Law, for any improvement carried out by the tenant on the holding being an improvement specified in Part I of the First Schedule to this Law.

Consent to improvements.

2. (1) Subject to the provisions of the next succeeding subsection, a tenant shall not be entitled to compensation in pursuance of the provisions of the last preceding section unless his landlord has given his consent in writing to the carrying out of the improvement concerned.

(2) Where, in the case of any improvement specified in the First Schedule to this Law, a tenant is aggrieved by the refusal of his landlord to give his consent under the provisions of the last foregoing subsection, the tenant may, after giving notice in writing to the landlord of his intention so to do, apply to [the Committee] for approval of the carrying out of the improvement.

(3) Upon receipt of an application in pursuance of the provisions of the last preceding subsection, [the Committee] may, after affording to the tenant and to the landlord an opportunity of making representations to it whether in writing or verbally at its discretion, approve the carrying out of the improvement either unconditionally or upon such terms, whether as to reduction of the compensation which would be payable if [the Committee] approved unconditionally or as to such other matters, as appear to [the Committee] to be just, or may withhold its approval and in either case shall forthwith after coming to a decision on the application serve a notice in writing on the landlord and the tenant of its decision.

(4) If [the Committee] approves the carrying out of an improvement in pursuance of the provisions of the last preceding subsection, the landlord may within one month from receiving the notice of the decision of [the Committee] serve a notice in writing on [the Committee] and the tenant that the landlord proposes himself to carry out the improvement.

(5) The landlord or any person authorised by him in that behalf may at all reasonable times enter on the holding for the purpose of carrying out the improvement referred to in the last preceding subsection and the tenant shall not be entitled to any compensation by reason of any temporary dispossession resulting from, or arising out of, the carrying out of such improvement.

(6) If –

- (a) a notice is not served by the landlord in pursuance of the provisions of subsection (4) of this section, or
- (b) such a notice is duly served but on an application being made to it in that behalf [the Committee], after affording to the tenant and to the landlord an opportunity of making representations to [the Committee] whether in writing or verbally, determines that the landlord has failed to carry out the improvement within a reasonable time,

the approval of [the Committee] shall have effect for the purposes of subsection (1)

of this section as if it were the consent of the landlord.

NOTE

In section 2, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Rent increase when improvement effected by landlord.

3. Where any improvement has been carried out on an agricultural holding by the landlord in pursuance of the provisions of the last preceding section the landlord may, by notice in writing served on the tenant prior to the termination of the period of six months next following the completion of the improvement, increase the rent of the holding as from the completion of the improvement by an amount not exceeding the increase in the annual rental value of the holding which is attributable to the improvement.

PART II

Compensation for scheduled acts of husbandry.

4. The tenant of an agricultural holding shall, subject to the provisions of this Part of this Law, be entitled on quitting the holding on the termination of the tenancy to recover from his landlord compensation of such amount as shall be determined in accordance with the provisions of Part II of the Second Schedule to this Law, for any act of husbandry carried out by the tenant on the holding being such an act as is specified in Part II of the First Schedule to this Law.

Landlord may require notice of acts of husbandry.

5. (1) The landlord of an agricultural holding may require the tenant thereof by notice in writing, a copy of which shall be sent to [the Committee], to inform him prior to each occasion on which the tenant intends to carry out any act of husbandry on the holding being such an act as is specified in Part II of the First Schedule to this Law.

(2) Where the landlord of an agricultural holding has required the tenant thereof to notify him of his intention to carry out an act of husbandry as

aforesaid and the tenant fails to comply with the requirement he shall not be entitled to receive compensation in pursuance of the provisions of section four of this Law in respect of the act of husbandry concerned.

NOTE

In section 5, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

PART III

Compensation for dilapidation, etc.

6. (1) The landlord of an agricultural holding shall be entitled to recover from the tenant of the holding, on the tenant quitting the holding on the termination of the tenancy, compensation in respect of the dilapidation or deterioration of, or damage to, any part of the holding caused by any act or omission of the tenant.

(2) The amount of the compensation payable under the last preceding subsection shall be the cost, as at the date of the tenant quitting the holding, of making good the dilapidation, deterioration or damage.

(3) Any dispute arising between the landlord and the tenant of an agricultural holding as to the cost of making good any dilapidation, deterioration or damage for the purposes of assessing the amount of the compensation payable under subsection (1) of this section shall be determined by arbitration in accordance with the provisions of section thirteen of this Law.

PART IV

Records of holdings.

7. (1) A record of the condition of the fences, gates, roads, drains, ditches and cultivation of an agricultural holding shall be made –

(a) in the case of a tenancy which commenced before the

date of the coming into force of this Law, before the expiration of the period of nine months commencing on that date and in the case of any other tenancy, as soon as may be after the tenancy of the holding commences or in any event before the expiration of the period of two months commencing with the commencement of the tenancy, and

- (b) as soon as may be after the termination of a tenancy or in any event before the expiration of the period of two months commencing on the date of the termination of the tenancy, and
- (c) with the approval in writing of [the Committee], at any time during the tenancy if the landlord or tenant of the holding so requires,

by a person agreed upon by the landlord and the tenant or, in default of such agreement, by a person nominated by [the Committee] and a copy of each such record shall be sent to [the Committee].

(2) The cost of making any such record as aforesaid shall, in default of agreement between the landlord and the tenant, be borne by the parties in equal shares.

NOTE

In section 7, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Improvements and acts of husbandry during any tenancy of a series qualify for compensation.

8. Where the tenant of an agricultural holding has remained in the holding during two or more tenancies he shall not be deprived of his right to compensation in pursuance of the provisions of this Law in respect of improvements

or acts of husbandry by reason only that the improvements or acts of husbandry were made during a tenancy other than the one at the termination of which he quits the holding.

Compensation for dilapidation, etc., in respect of acts during any tenancy of a series.

9. Where the tenant of an agricultural holding has remained in the holding during two or more tenancies, the landlord shall not be deprived of his right to compensation in pursuance of the provisions of this Law in respect of any dilapidation, deterioration or damage by reason only that the dilapidation, deterioration or damage occurred during a tenancy other than the one at the termination of which the tenant quits the holding.

Forfeiture of right to compensation.

10. If the tenant of an agricultural holding forfeits the tenancy prior to the termination thereof or fails to comply with, or contravenes any of the covenants of the contract of tenancy, he shall not be entitled to compensation from the landlord in accordance with the provisions of this Law in respect of improvements or acts of husbandry carried out on the holding.

Measure of compensation and compensation agreements.

11. (1) Except where otherwise specifically provided, a landlord or a tenant, as the case may be, of an agricultural holding shall, if entitled to compensation in pursuance of the provisions of this Law, be entitled to such compensation in accordance with the provisions of Part I or Part II of the Second Schedule to this Law or in accordance with Part III of this Law, as the case may require, and not otherwise, any agreement to the contrary notwithstanding.

(2) A landlord and a tenant of an agricultural holding may by agreement, a copy of which shall be sent by the landlord to [the Committee], make such provision as they may deem necessary or expedient for compensation for any improvement to, or act of husbandry on, the holding for which provision is not made in this Law but such agreement shall not be enforceable unless it is made in writing and signed by the parties thereto or by their agents on their behalf or on behalf of either of them by their respective agents.

NOTE

In section 11, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Void contracts.

12. Except where otherwise specifically provided in this Law, any contract made by a tenant of an agricultural holding by virtue of which his right to claim compensation is taken away or limited shall, to that extent, be void.

Arbitration.

13. (1) Except where otherwise specifically provided in any tenancy agreement, any matter is required in pursuance of the provisions of this Law to be referred to arbitration it shall be determined by two arbitrators one of whom shall be appointed by the landlord and one by the tenant save that if one or both arbitrators are not appointed as aforesaid then he or they shall be nominated by [the Committee] and any arbitrator so nominated shall be deemed to be the arbitrator appointed by the landlord or by the tenant, as the case may be.

(2) Arbitrators appointed as aforesaid shall before commencing to determine any matter referred to them under this section nominate an umpire who shall determine the matter if the arbitrators disagree.

(3) The arbitrators or the umpire, as the case may be, may refer to the Royal Court sitting as an Ordinary Court, any question of law or of law mixed with fact arising in connection with the determination of any matter referred to them or him under this section in such manner and within such time as may be prescribed by Order of the Royal Court.

(4) Subject to the provisions of the last preceding subsection, the decision of the arbitrators or of the umpire, as the case may be, shall be final.

NOTES

In section 13, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016,

section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

In accordance with the provisions of the Arbitration (Guernsey) Law, 2016, section 80(1), with effect from 12th December, 2016, the provisions of that Law apply to every arbitration under a Guernsey enactment (a "statutory arbitration"), subject to, first, the exceptions in section 80(2) and, second, the adaptations and exclusions specified in sections 81 to 83 of the 2016 Law.

Recovery of compensation.

14. Where any compensation is payable by a landlord or tenant of an agricultural holding in pursuance of the provisions of this Law it shall be recoverable as a civil debt if the action for the recovery of such compensation is commenced before the expiration of the twelve calendar months commencing on the day on which the tenant quits the holding.

Service of notices.

15. Any notice served for the purposes of this Law shall be validly served –

- (a) on any person, if delivered to him, left, or sent by registered post or by recorded delivery service to him, at his usual or last known place of abode,
- (b) on any firm, if delivered to any partner of the firm, or left at, or sent by registered post or by recorded delivery service to, the principal or last known principal place of business of the firm,
- (c) on any body corporate, if left at, or sent by registered post or by recorded delivery service to, its registered office, if situate in this Island, or if its registered office is not so situate, its principal or last known principal place of business in this Island.

Variation of Schedules.

16. The States may from time to time by Ordinance vary any or all of the provisions of the Schedules to this Law.

Interpretation.

17. In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"agricultural holding" means the aggregate of the agricultural land comprised in a contract of tenancy, not being a contract under which the said land is let to the tenant during his continuance in any full time office, appointment or employment, under the landlord,

"agricultural land" means land used for agriculture which is so used for the purposes of a trade or business,

"agriculture" includes horticulture, seed growing, dairy farming, and livestock breeding and keeping, the use of land as grazing land, meadow land and market gardens, but does not include –

- (a) the use of land covered with greenhouses or borders adjacent to greenhouses where such borders do not extend more than thirty feet from the exterior of the greenhouses, or
- (b) the use of land adjacent to greenhouse property which is habitually or principally utilized for the replacement of soil in greenhouses,

"annual rental value" means the annual rental value as inscribed in the Cadastre prepared and maintained under the provisions of the Cadastre Law, 1947, as amended,

"[the Committee]" means the States [Committee for the Environment & Infrastructure],

"landlord" means any person for the time being entitled to receive the rents or profits of any land,

"tenant" means the holder of land under a contract of tenancy and includes the executors, administrators and assigns of a tenant or other person deriving title from a tenant,

"termination" in relation to a tenancy means the cessation of the contract by a tenant by reason of effluxion of time or from any other cause.

NOTES

In section 17, the words, first, "the Committee" and, second, "Committee for the Environment & Infrastructure" in square brackets in the definition of the expression "the Committee" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 5 and section 2, Schedule 1, paragraph 1(c), Schedule 2, Part 1, paragraph 2, with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for the Environment & Infrastructure and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(c), Schedule 2, Part 1, paragraph 2, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

Citation.

18. This Law may be cited as the Agricultural Holdings (Improvements) (Guernsey) Law, 1965.

Commencement.

19. This Law shall come into operation on such date as the States may by Ordinance appoint.

NOTE

The Law was brought into force on 1st March, 1966 by the Agricultural Holdings (Improvements) (Guernsey) Law, 1965 (Commencement) Ordinance, 1965, section 1.

FIRST SCHEDULE

Part I—Improvements

Land Drainage

Land reclamation, including the removal of bracken, gorse, tree roots, undergrowth, boulders or other like obstructions to cultivation.

Part II—Acts of husbandry

Liming of land

Application to land of purchased manures, including artificial manures.

SECOND SCHEDULE

Compensation

Part I—Improvements

1. The compensation payable to the tenant of an agricultural holding in pursuance of the provisions of section one of this Law in respect of any of the improvements specified in Part I of the First Schedule to this Law shall be an amount equal to the increase attributable to the improvement in the value of the holding as an agricultural holding having regard to the character and situation of the holding and the average requirements of tenants reasonably skilled in husbandry.

2. The compensation payable as aforesaid shall be assessed by a person nominated for the purpose by [the Committee] and the cost of such assessment shall be borne by the landlord and the tenant in equal shares.

3. Such assessment shall be final unless within one month of the making thereof the landlord or the tenant gives notice to the other that he does not accept the assessment and requires the matter to be determined by arbitration in accordance with the provisions of section thirteen of this Law.

Part II—Acts of husbandry

1. The compensation payable to the tenant of an agricultural holding in pursuance of the provisions of section four of this Law in respect of any of the acts of husbandry specified in Part II of the First Schedule to this Law –

- (a) in the case where no crop has been taken from the holding since the last liming of the land or the last application of purchased or artificial manure, shall be the cost of the lime or manure less the amount of any States subsidy paid to the tenant in respect thereof,
- (b) in the case where one crop has been taken from the holding after the last liming or the last application of

purchased or artificial manure, other than a nitrogenous fertilizer, shall be one half of the cost of the lime or manure less the amount of any States subsidy paid to the tenant in respect thereof.

2. No compensation shall be payable to the tenant of an agricultural holding in pursuance of the provisions of section four of this Law in respect of any of the acts of husbandry specified in Part II of the First Schedule to this Law –

- (a) in the case where more than one crop has been taken from the holding after the last liming or last application of purchased or artificial manure other than a nitrogenous fertilizer, or
- (b) in the case where one crop or more has been taken from the holding after the application of a nitrogenous fertilizer.

NOTE

In the Second Schedule, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

¹ The words "Committee for the Environment & Infrastructure" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004.

² The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Law were previously transferred to them from the Agriculture and Countryside Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 2, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.