



# Agricultural Holdings (Scotland) Act 2003

## 2003 asp 11

### PART 1

#### AGRICULTURAL TENANCIES

#### CHAPTER 1

#### TYPES OF TENANCY

#### *New types of tenancy*

#### **4 Short limited duration tenancies**

- (1) Where—
- (a) agricultural land is let under a lease for a term of not more than five years;
  - (b) the land comprised in the lease is not let to the tenant during the tenant's continuance in any office, appointment or employment held under the landlord; and
  - (c) the lease does not constitute—
    - (i) a 1991 Act tenancy; or
    - (ii) a tenancy to which section 3 applies,the tenancy under the lease is, by virtue of this subsection, a short limited duration tenancy.
- (2) Without prejudice to subsection (1), where the tenant remains in occupation of the land after the expiry of the term of a tenancy to which section 3 applies with the consent of the landlord, the tenancy continues to have effect as if it were for a term of—
- (a) 5 years; or
  - (b) such period of less than 5 years as the landlord and tenant may agree to, and the tenancy is, by virtue of this subsection, a short limited duration tenancy.
- (3) Where the tenant remains in occupation of the land after the expiry of the term of a short limited duration tenancy of less than 5 years (including such a term fixed by

**Changes to legislation:** *Agricultural Holdings (Scotland) Act 2003, Cross Heading: New types of tenancy is up to date with all changes known to be in force on or before 05 March 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

virtue of subsection (2)) with the consent of the landlord, the tenancy continues to have effect as if it were for a term of—

- (a) 5 years; or
- (b) such period of less than 5 years as the landlord and tenant may agree to.

(4) This subsection applies to a short limited duration tenancy where—

- (a) the term of the tenancy has expired and the tenant has not remained in occupation of the land; or
- (b) during the term of the tenancy, the landlord and tenant have terminated the tenancy by agreement.

(5) Where the landlord and tenant enter into a lease constituting a further short limited duration tenancy which—

- (a) comprises the same land as that comprised in the tenancy to which subsection (4) applies; and
- (b) has effect less than one year from the expiry of the term of, or termination of, that tenancy,

the expired period of the term of that tenancy counts as an expired period of the term of the further tenancy; but this is subject to subsection (3) of section 5.

**Annotations:**

**Commencement Information**

- II** S. 4 in force at 27.11.2003 by [S.S.I. 2003/548](#), **art. 2(a)** (with [Sch.](#))

**<sup>F1</sup>5 Limited duration tenancies**

**Annotations:**

**Amendments (Textual)**

- F1** [S. 5](#) repealed (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 85(2)**, 130(1) (with [s. 128](#)); [S.S.I. 2017/299](#), **reg. 2**, **sch.** (with [reg. 4](#))

**[<sup>F2</sup>5A Modern limited duration tenancies**

(1) Where—

- (a) agricultural land is let under a lease entered into on or after the coming into force of this section for a term of not less than 10 years,
- (b) the land comprised in the lease is not let to the tenant during the tenant's continuance in any office, appointment or employment held under the landlord, and
- (c) the lease does not constitute a 1991 Act tenancy or a repairing tenancy,

the tenancy under the lease is, by virtue of this subsection, a modern limited duration tenancy.

(2) Where—

**Changes to legislation:** *Agricultural Holdings (Scotland) Act 2003, Cross Heading: New types of tenancy is up to date with all changes known to be in force on or before 05 March 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) at any time before the expiry of the term of a short limited duration tenancy, the landlord and the tenant agree in writing to convert the tenancy to a modern limited duration tenancy, or
  - (b) the tenant remains in occupation of the land after the expiry of the term of a short limited duration tenancy of 5 years (including such a term fixed by virtue of section 4(2) or (3)) with the consent of the landlord,
- the tenancy has effect as if it were for a term of 10 years commencing at the start of the term of the short limited duration tenancy, and the tenancy is, by virtue of this subsection, a modern limited duration tenancy.
- (3) Where subsection (5) of section 4 results in a short limited duration tenancy purporting to be for a term of more than 5 years, the tenancy has effect as if it were for a term of 10 years; and the tenancy is, by virtue of this subsection, a modern limited duration tenancy.
  - (4) Without prejudice to subsections (2) and (3), where a lease constituting a tenancy of agricultural land, as described in paragraphs (b) and (c) of subsection (1), purports to be for a term of more than 5 years and less than 10 years, the tenancy has effect as if it were for a term of 10 years; and the tenancy is, by virtue of this subsection, a modern limited duration tenancy.
  - (5) Section 5B does not apply to a modern limited duration tenancy created under subsection (2), (3) or (4).

#### Annotations:

#### Amendments (Textual)

- F2** Ss. 5A, 5B inserted (23.12.2016 for specified purposes, 30.11.2017 in so far as not already in force) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 85(3), 130(1)** (with s. 128); S.S.I. 2016/365, [reg. 2](#), [sch.](#); S.S.I. 2017/299, [reg. 2](#), [sch.](#) (with [reg. 5](#))

### 5B Modern limited duration tenancies: break clauses

- (1) This section applies where the tenant under a lease constituting a modern limited duration tenancy is a new entrant to farming.
- (2) The lease may contain a provision that the tenancy may be terminated after 5 years in accordance with section 8D (a “break clause”).
- (3) The Scottish Ministers may by regulations make further provision about the tenants who are new entrants for the purposes of this section.]

#### Annotations:

#### Amendments (Textual)

- F2** Ss. 5A, 5B inserted (23.12.2016 for specified purposes, 30.11.2017 in so far as not already in force) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 85(3), 130(1)** (with s. 128); S.S.I. 2016/365, [reg. 2](#), [sch.](#); S.S.I. 2017/299, [reg. 2](#), [sch.](#) (with [reg. 5](#))

### [<sup>F3</sup>5C Repairing tenancies: creation

- (1) Where—

**Changes to legislation:** *Agricultural Holdings (Scotland) Act 2003, Cross Heading: New types of tenancy is up to date with all changes known to be in force on or before 05 March 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) agricultural land is let under a lease entered into on or after the coming into force of this section for a term of not less than 35 years,
  - (b) the land comprised in the lease is not let to the tenant during the tenant's continuance in any office, appointment or employment held under the landlord,
  - (c) the lease does not constitute a 1991 Act tenancy,
  - (d) the lease requires the tenant, during the repairing period, to improve the land comprised in the lease in order to bring it into a state capable of being farmed, after the expiry of the repairing period, in accordance with the rules of good husbandry, and
  - (e) the lease expressly states that this section is to apply to the tenancy, the tenancy is, by virtue of this subsection, a repairing tenancy.
- (2) In this Part, the “repairing period” is the period, beginning with the commencement of the tenancy, of—
- (a) 5 years, or
  - (b) such longer period—
    - (i) as the landlord and tenant may agree under this paragraph or, as the case may be, under subsection (3)(a), or
    - (ii) as the Land Court may determine under subsection (3)(b).
- (3) The repairing period may be extended at any time before its expiry—
- (a) by the landlord and tenant by agreement, or
  - (b) by the Land Court on the application of either the landlord or the tenant.
- (4) On an application under subsection (3)(b), the Land Court may extend the repairing period—
- (a) if it considers it appropriate in all the circumstances to do so, and
  - (b) by such period as it determines necessary in all the circumstances.
- (5) A lease constituting a repairing tenancy may contain a provision that the tenancy may be terminated in accordance with section 8G (a “break clause”).
- (6) In this section and section 5D, what is good husbandry is to be construed by reference to schedule 6 of the Agriculture (Scotland) Act 1948.

#### Annotations:

#### Amendments (Textual)

- F3** Ss. 5C, 5D inserted (23.12.2016 for specified purposes) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), [ss. 92\(2\)](#), [130\(1\)](#) (with [s. 128](#)); [S.S.I. 2016/365](#), [reg. 2](#), [sch.](#)

### 5D **Repairing tenancies: exemption from rules of good husbandry during repairing period**

- (1) Where a lease constituting a repairing tenancy does not include provision mentioned in subsection (2), such provision is incorporated.
- (2) The provision is that during the repairing period the tenant cannot be held liable for not farming the land comprised in the lease in accordance with the rules of good husbandry.]

---

**Changes to legislation:** *Agricultural Holdings (Scotland) Act 2003, Cross Heading: New types of tenancy is up to date with all changes known to be in force on or before 05 March 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

**Annotations:**

---

**Amendments (Textual)**

- F3** Ss. 5C, 5D inserted (23.12.2016 for specified purposes) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), [ss. 92\(2\)](#), 130(1) (with s. 128); [S.S.I. 2016/365](#), [reg. 2](#), [sch.](#)

**Changes to legislation:**

Agricultural Holdings (Scotland) Act 2003, Cross Heading: New types of tenancy is up to date with all changes known to be in force on or before 05 March 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7C inserted by 2016 asp 18 s. 93(2)
- s. 7D inserted by 2016 asp 18 s. 106(2)
- s. 8F8G inserted by 2016 asp 18 s. 94(2)
- s. 16B inserted by 2016 asp 18 s. 95(2)
- s. 17A inserted by 2016 asp 18 s. 96(2)
- s. 18B inserted by 2016 asp 18 s. 97(2)
- s. 26(1)(1A) substituted for s. 26(1) by 2016 asp 18 s. 99(4)(a)
- s. 26(3) inserted by 2016 asp 18 s. 99(4)(c)