



# Agricultural Holdings (Scotland) Act 2003

## 2003 asp 11

### PART 1 **S**

#### AGRICULTURAL TENANCIES

### CHAPTER 1 **S**

#### TYPES OF TENANCY

##### *Tenancies under the 1991 Act*

### **1 Application of the 1991 Act to agricultural holdings **S****

- (1) This subsection applies where—
  - (a) a lease is entered into on or after the coming into force of this subsection; and
  - (b) the tenancy under the lease is a tenancy of an agricultural holding in relation to which the Agricultural Holdings (Scotland) Act 1991 (c. 55) (in this Act referred to as “the 1991 Act”) would have applied had the lease been entered into immediately before the coming into force of this subsection.
- (2) Where subsection (1) applies, the 1991 Act does not apply in relation to the tenancy (except in so far as this Act applies any provision of that Act to short limited duration tenancies or limited duration tenancies) unless the lease—
  - (a) is entered into in writing prior to the commencement of; and
  - (b) expressly states that the 1991 Act is to apply in relation to, the tenancy.
- (3) Section 2 (leases for less than year to year) of the 1991 Act is repealed.
- (4) Where, in respect of a tenancy of an agricultural holding—
  - (a) the lease is entered into before the coming into force of this subsection and the 1991 Act applies in relation to the tenancy; or
  - (b) the lease is entered into on or after the coming into force of this subsection and (by virtue of the conditions mentioned in paragraphs (a) and (b) of subsection (2) being fulfilled) the 1991 Act applies in relation to the tenancy,

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the tenancy under the lease is in this Act referred to as a “1991 Act tenancy”.

#### Commencement Information

**II** S. 1 in force at 27.11.2003 by [S.S.I. 2003/548](#), **art. 2(a)** (with [Sch.](#))

## <sup>F1</sup>2 **Conversion from 1991 Act tenancy to limited duration tenancy** **S**

#### Textual Amendments

**F1** S. 2 repealed (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 90(2)**, 130(1) (with s. 128); [S.S.I. 2017/299](#), **reg. 2**, **sch.** (with **reg. 3**)

## <sup>F2</sup>2A **Conversion from 1991 Act tenancy to modern limited duration tenancy** **S**

- (1) The landlord and tenant under a 1991 Act tenancy may terminate the tenancy by agreement in writing provided that—
  - (a) the agreement—
    - (i) specifies the date on which the termination is to have effect, and
    - (ii) is made not less than 30 days before that date, and
  - (b) subsection (2) is complied with.
- (2) This subsection is complied with if the landlord and tenant enter into a lease constituting a modern limited duration tenancy for a term of not less than 25 years which—
  - (a) comprises or includes the same land as that comprised in the tenancy being terminated under subsection (1), and
  - (b) has effect from the date on which the termination under that subsection has effect.
- (3) The landlord or tenant is entitled, at any time before the date on which the termination under subsection (1) has effect, to revoke (without penalty)—
  - (a) the agreement made under that subsection, and
  - (b) the lease mentioned in subsection (2),
 by giving notice in writing to the other of the revocation.
- (4) On termination of a 1991 Act tenancy under subsection (1), the tenant is entitled to—
  - (a) such compensation for improvements as the tenant would have been entitled to under Part 4 (compensation for improvements) of the 1991 Act (or, as the case may be, under the lease), and
  - (b) such compensation as the tenant would have been entitled to under section 45A (compensation arising as a result of diversification and cropping of trees) of that Act,
 were the tenant quitting the holding as a result of the termination of the tenancy.
- (5) Where a 1991 Act tenancy is terminated under subsection (1), section 21 (notice to quit and notice of intention to quit) of the 1991 Act does not apply in respect of the tenancy.

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- (6) Section 5B does not apply to a modern limited duration tenancy created under this section.]

#### Textual Amendments

- F2** S. 2A inserted (30.11.2017) by Land Reform (Scotland) Act 2016 (asp 18), ss. 90(3), 130(1) (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 3)

### [<sup>F3</sup>2B Conversion from limited duration tenancy to modern limited duration tenancy **S**

- (1) The landlord and tenant under a limited duration tenancy may terminate the tenancy by agreement in writing provided that—
- (a) the agreement—
    - (i) specifies the date on which the termination is to have effect, and
    - (ii) is made not less than 30 days before that date, and
  - (b) subsection (2) is complied with.
- (2) This subsection is complied with if the landlord and tenant enter into a lease constituting a modern limited duration tenancy for a term of not less than the term remaining under the limited duration tenancy which—
- (a) comprises or includes the same land as that comprised in the tenancy being terminated under subsection (1), and
  - (b) has effect from the date on which the termination under that subsection has effect.
- (3) The landlord or tenant is entitled, at any time before the date on which the termination under subsection (1) has effect, to revoke (without penalty)—
- (a) the agreement made under that subsection, and
  - (b) the lease mentioned in subsection (2),
- by giving notice in writing to the other of the revocation.
- (4) On termination of a limited duration tenancy under subsection (1), the tenant is not entitled to compensation for improvements under Part 4 (or, as the case may be, under the lease).
- (5) But any improvements for which the tenant would have been entitled to compensation under that Part but for subsection (4) are, for the purposes of that Part, to be regarded as improvements carried out during the modern limited duration tenancy.
- (6) Where a limited duration tenancy is terminated under subsection (1), section 8 does not apply in respect of the tenancy.
- (7) Section 5B does not apply to a modern limited duration tenancy created under this section.]

#### Textual Amendments

- F3** S. 2B inserted (30.11.2017) by Land Reform (Scotland) Act 2016 (asp 18), ss. 91(2), 130(1) (with s. 128); S.S.I. 2017/299, reg. 2, sch.

**Changes to legislation:**

Agricultural Holdings (Scotland) Act 2003, Cross Heading: Tenancies under the 1991 Act is up to date with all changes known to be in force on or before 20 September 2023. 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.

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**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\(4\)\(c\)](#)