



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

PART 6 **S**

RIGHTS OF CERTAIN PERSONS WHERE TENANT IS A PARTNERSHIP

70 **Rights of certain persons where tenant is a partnership **S****

- (1) Subsection (2) applies to—
 - (a) a 1991 Act tenancy if the lease constituting the tenancy is entered into on or after the coming into force of this section; and
 - (b) a tenancy under a lease constituting a short limited duration tenancy ^[F1], a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy],
where the tenant is a partnership.
- (2) Where this subsection applies and—
 - (a) any partner is—
 - (i) the landlord or an associate of the landlord; or
 - (ii) a partnership or a company in which the landlord has a relevant interest; and
 - (b) there is any other partner,
subsections (3) and (4) apply.
- (3) Where this subsection applies, any partner not mentioned in subsection (2)(a) may exercise or enforce any right of a tenant conferred by virtue of this Act or the 1991 Act as if the partner were the tenant in the partner's own right.
- (4) Where this subsection applies, if the tenancy purports to be terminated as a consequence of—
 - (a) the dissolution of the partnership—
 - (i) in accordance with the partnership agreement; or
 - (ii) due to the actings of any partner mentioned in subsection (2)(a);
 - (b) the renunciation of the tenancy by such a partner; or
 - (c) a breach of the tenancy by such a partner,
subsection (5) applies.

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- (5) Where this subsection applies, notwithstanding the purported termination of the tenancy—
- (a) the tenancy continues to have effect; and
 - (b) any partner not mentioned in subsection (2)(a) becomes the tenant (or a joint tenant) under the tenancy in the partner’s own right,
- if the partner gives notice to the landlord in accordance with subsection (6).
- (6) Notice is given in accordance with this subsection if—
- (a) it is in writing;
 - (b) it is given within 28 days of the purported termination of the tenancy; and
 - (c) it states that the partner intends to become the tenant (or a joint tenant) under the tenancy in the partner’s own right.
- (7) For the purposes of this section and section 72, a landlord has a relevant interest in a partnership or company if the landlord or an associate of the landlord is—
- (a) a partner in the partnership;
 - (b) a partner in a partnership which forms part of the partnership;
 - (c) a shareholder in the company; or
 - (d) the holder of a standard security or floating charge over an interest in a tenancy where the partnership or the company is a partner in the tenant.
- (8) For the purposes of this section and section 72, a person is an associate of a landlord if the person is—
- (a) where the landlord is a partnership or a company, a partner in the landlord or, as the case may be, a shareholder of the landlord;
 - (b) where an associate of the landlord is a partnership or a company, a partner in or, as the case may be, a shareholder of that associate;
 - (c) an agent of the landlord or of an associate of the landlord; or
 - (d) a member of the landlord’s family.
- (9) The Scottish Ministers may by order modify (either or both) subsections (7) and (8).

Textual Amendments

- F1** Words in s. 70(1)(b) substituted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(26\)](#) (with s. 128); [S.S.I. 2017/299](#), reg. 2, sch. (with reg. 12)

Commencement Information

- I1** S. 70(1)-(6) (9) in force at 27.11.2003 by [S.S.I. 2003/548](#), [art. 2\(f\)](#) (with Sch.)
- I2** S. 70(7)(8) in force at 22.5.2003 for specified purposes by [S.S.I. 2003/248](#), [art. 2](#)
- I3** S. 70(7)(8) in force at 1.7.2003 for specified purposes by [S.S.I. 2003/305](#), [art. 2](#)
- I4** S. 70(7)(8) in force at 27.11.2003 in so far as not already in force by [S.S.I. 2003/548](#), [art. 2\(f\)](#) (with Sch.)

71 Meaning of “family” **S**

- (1) For the purposes of section 70(8)(d), who the members of a person’s family are is to be construed in accordance with subsections (2) and (3).
- (2) A person (“AG”) is a member of another person’s family if—

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- (a) AG is the person's spouse [^{F2}or civil partner] or AG and the person live together as husband and wife or in a relationship which has the characteristics of the relationship between husband and wife except that AG and the person are of the same sex; or
 - (b) AG is the person's parent, grandparent, child, grandchild, sibling, uncle, aunt, nephew, niece or cousin.
- (3) For the purposes of subsection (2)(b)—
- (a) a relationship by marriage [^{F3}or by virtue of civil partnership] is to be treated as a relationship by blood;
 - (b) a relationship of the half-blood is to be treated as a relationship of the whole blood;
 - (c) if AG is—
 - (i) the stepchild of the person, AG is to be treated as the person's child;
 - (ii) the step-parent of the person, AG is to be treated as the person's parent;
 - (d) if AG is brought up or treated by the person as if the person's child, AG is to be treated as the person's child.
- (4) The Scottish Ministers may by order modify (any or all) subsections (1) to (3).

Textual Amendments

- F2** Words in s. 71(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 68(2)**; S.S.I. 2005/604, arts. 2(c), 4
- F3** Words in s. 71(3)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 68(3)**; S.S.I. 2005/604, arts. 2(c), 4

Modifications etc. (not altering text)

- C1** S. 71 applied (28.2.2021) by [The Agricultural Holdings \(Relinquishment and Assignment\) \(Application to Relevant Partnerships\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/106\)](#), regs. 1(1), **2(4)(d)(5)**

Commencement Information

- I5** S. 71 in force at 27.11.2003 by [S.S.I. 2003/548](#), **art. 2(f)** (with Sch.)

72 Rights of certain persons where tenant is a limited partnership **S**

- (1) Subsections (2) and (3) apply to a 1991 Act tenancy where the lease constituting the tenancy is entered into before the coming into force of this section and—
- (a) the tenant is a limited partnership; and
 - (b) any limited partner is—
 - (i) the landlord or an associate of the landlord; or
 - (ii) a partnership or a company in which the landlord has a relevant interest.
- (2) Where this subsection applies, any general partner may exercise or enforce any right of a tenant conferred by virtue of Part 2 of this Act as if the partner were the tenant in the partner's own right ^{F4}....

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- (3) Where this subsection applies and the tenancy purports to be terminated as a consequence of—
- (a) the dissolution of the partnership by notice served on or after 16th September 2002 by a limited partner mentioned in subsection (1)(b);
 - (b) the renunciation of the tenancy on or after that date by such a partner; or
 - (c) a breach of the tenancy on or after that date by such a partner,
- subsection (6) applies ^{F5}....

^{F6}(4)

^{F7}(5)

- (6) Where this subsection applies, notwithstanding the purported termination of the tenancy—
- (a) the tenancy continues to have effect; and
 - (b) any general partner becomes the tenant (or a joint tenant) under the tenancy in the partner’s own right,

if the general partner gives notice to the landlord within 28 days of the purported termination of the tenancy or within 28 days of the coming into force of this section (whichever is the later) stating that the partner intends to become the tenant (or a joint tenant) under the tenancy in the partner’s own right.

^{F8}(7)

^{F8}(8)

^{F8}(9)

^{F8}(10)

^{F8}(11)

- (12) In this section, the expressions, “limited partnership”, “limited partner” and “general partner” are to be construed in accordance with the Limited Partnerships Act 1907 (c. 24).

Textual Amendments

- F4** Words in s. 72(2) repealed (3.4.2014) by [The Agricultural Holdings \(Scotland\) Act 2003 Remedial Order 2014 \(S.S.I. 2014/98\)](#), arts. 1(2), **2(2)(a)**
- F5** Words in s. 72(3) repealed (3.4.2014) by [The Agricultural Holdings \(Scotland\) Act 2003 Remedial Order 2014 \(S.S.I. 2014/98\)](#), arts. 1(2), **2(2)(b)**
- F6** S. 72(4) repealed (3.4.2014) by [The Agricultural Holdings \(Scotland\) Act 2003 Remedial Order 2014 \(S.S.I. 2014/98\)](#), arts. 1(2), **2(2)(c)**, 3
- F7** S. 72(5) repealed (3.4.2014) by [The Agricultural Holdings \(Scotland\) Act 2003 Remedial Order 2014 \(S.S.I. 2014/98\)](#), arts. 1(2), **2(2)(c)**, 3
- F8** S. 72(7)-(11) repealed (3.4.2014) by [The Agricultural Holdings \(Scotland\) Act 2003 Remedial Order 2014 \(S.S.I. 2014/98\)](#), arts. 1(2), **2(2)(c)**, 3

Modifications etc. (not altering text)

- C2** S. 72(2) modified (23.12.2004) by [Agricultural Holdings \(Right to Buy Modifications\) \(Scotland\) Regulations 2004 \(S.S.I. 2004/557\)](#), regs. 1, **5(1)**

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C3 S. 72(6) modified (23.12.2004) by [Agricultural Holdings \(Right to Buy Modifications\) \(Scotland\) Regulations 2004 \(S.S.I. 2004/557\)](#), regs. 1, **5(2)**

Commencement Information

I6 S. 72(1)(3)-(9)(11)(12) in force at 22.5.2003 by [S.S.I. 2003/248](#), **art. 2**

I7 S. 72(2) in force at 27.11.2003 by [S.S.I. 2003/548](#), **art. 2(f)** (with [Sch.](#))

[F9]72A Application of section 73 S

(1) Section 73 applies to a tenancy continuing to have effect by virtue of section 72(6) unless the tenancy is a relevant tenancy.

(2) If—

- (a) the tenancy is a relevant tenancy,
- (b) the circumstances described in subsection (3) do not apply, and
- (c) the landlord gives an application notice to the tenant within the intimation period,

section 73 applies to the tenancy from the date on which the application notice is given.

(3) The circumstances are that—

- (a) the landlord purchased the landlord's interest in the tenancy at a time when it was no longer possible for an order under section 72(8) to be made in respect of the tenancy, or
- (b) the landlord acquired (by any means) the landlord's interest in the tenancy from—
 - (i) the landlord who purchased that interest in the circumstances described in paragraph (a), or
 - (ii) a successor of such a landlord.

(4) In this section—

“application notice” means a notice, in writing, intimating that the landlord may bring the tenancy to an end in accordance with section 73,

“the intimation period” means the period of 12 months beginning on 28th November 2014,

“relevant tenancy” means a tenancy continuing to have effect by virtue of section 72(6) where—

- (a) the action taken by a limited partner in consequence of which the tenancy was purportedly terminated (being an action described in section 72(3) (a) to (c)) occurred before 1st July 2003,
- (b) notice was given to the landlord under section 72(6) before the coming into force of this section, and
- (c) there is no ongoing application for an order under section 72(8) in respect of the tenancy;

“successor” includes the executor, assignee, legatee, donee, guardian, legal representative (within the meaning of Part I of the Children (Scotland) Act 1995) or (in relation to a sequestration) trustee or interim trustee, of a landlord.

(5) For the purposes of this section, a reference to an ongoing application for an order under section 72(8) is a reference to an application made to the Land Court under section 72(7) before the coming into force of this section and which, at that time—

- (a) has not been finally determined by the Land Court, or

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(b) is subject to an appeal from that Court which has not been finally determined.]

Textual Amendments

F9 S. 72A inserted (3.4.2014) by [The Agricultural Holdings \(Scotland\) Act 2003 Remedial Order 2014](#) (S.S.I. 2014/98), arts. 1(2), **2(3)**

73 Termination of tenancy continued under section 72 **S**

- (1) Where this section applies, subsections (1) to (3) and (5) of section 21 (notice to quit and notice of intention to quit) of the 1991 Act do not apply in relation to the bringing of the tenancy to an end by the landlord.
- (2) Subsections (4), (6) and (7) of that section apply in relation to subsections (3) to (5) as they apply in relation to subsections (1) to (3) and (5) of that section.
- (3) The tenancy may be brought to an end by the landlord if the landlord gives a notice under this subsection to the tenant.
- (4) Subject to subsection (7), a notice under subsection (3) must—
 - (a) be in writing and state that the tenant shall quit the land on the expiry of the stipulated endurance of the lease constituting the tenancy (or, where the lease has continued in force by tacit relocation, on the expiry of a period of continuation); and
 - (b) be given not less than one year nor more than two years before the expiry of the stipulated endurance of the lease (or expiry of the period of continuation), provided that not less than 90 days have elapsed from the date on which the intimation mentioned in subsection (5) is given.
- (5) Subject to subsection (7), a notice under subsection (3) is of no effect unless the landlord has given written intimation of the landlord's intention to terminate the tenancy to the tenant not less than two years nor more than three years before the expiry of the stipulated endurance of the lease (or expiry of the period of continuation).
- (6) The landlord may apply to the Land Court for an order under subsection (7).
- (7) An order under this subsection is an order that, instead of the periods of time mentioned in subsections (4) and (5), such shorter periods as the Land Court may specify are to apply.
- (8) The Land Court is to make such an order if (but only if) it is satisfied that—
 - (a) service of the notice mentioned in paragraph (a) of subsection (3) of section 72, or the thing mentioned in paragraph (b) or (c) of that subsection, occurred otherwise than for the purposes of depriving the tenant (being then a general partner) of any right deriving from section 72; and
 - (b) it is reasonable to make the order.

Modifications etc. (not altering text)

C4 S. 73 continues to apply (3.4.2014) by [The Agricultural Holdings \(Scotland\) Act 2003 Remedial Order 2014](#) (S.S.I. 2014/98), arts. 1(2), **5**

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Commencement Information

I8 S. 73 in force at 1.7.2003 by [S.S.I. 2003/305](#), [art. 2](#)

74 Application of right to buy provisions **S**

The Scottish Ministers may by regulations—

- (a) provide that Part 2, in its application in relation to—
 - (i) partnerships who are tenants; and
 - (ii) such partners of partnerships as may exercise or enforce any right of tenants conferred by that Part,has effect with or subject to such modifications as the regulations may specify; and
- (b) make such further provision in relation to such partnerships and partners as they consider necessary or expedient for the purposes of that Part.

Commencement Information

I9 S. 74 in force at 27.11.2003 by [S.S.I. 2003/548](#), [art. 2\(f\)](#) (with [Sch.](#))

[^{F10}74A Application of Part 3A of the 1991 Act **S**

- (1) The Scottish Ministers may by regulations provide that Part 3A of the 1991 Act does not apply in relation to such types of partnership who are tenants, and in such circumstances, as the regulations may specify.
- (2) The Scottish Ministers may by regulations—
 - (a) provide that general partners, of such types of limited partnership as the regulations may specify, may, in such circumstances as may be so specified, exercise and enforce any rights of tenants conferred by Part 3A of that Act,
 - (b) provide that Part 3A, in its application in relation to—
 - (i) partnerships who are tenants, and
 - (ii) such partners of partnerships as may exercise or enforce any rights of tenants conferred by that Part,has effect with or subject to such modifications as the regulations may specify,
 - (c) make such further provision in relation to such partnerships and partners as they consider appropriate for the purposes of that Part.
- (3) Regulations under subsection (2) may make different provision for different types of partnership.]

Textual Amendments

F10 S. 74A inserted (23.12.2016 for specified purposes, 28.2.2021 in so far as not already in force) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), [ss. 111\(4\)](#), [130\(1\)](#) (with [s. 128](#)); [S.S.I. 2016/365](#), [reg. 2](#); [S.S.I. 2020/428](#), [reg. 2](#)

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