



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

PART 8

GENERAL PROVISIONS

91 Orders and regulations

- (1) Any power of the Scottish Ministers to make orders or regulations under this Act is exercisable by statutory instrument.
- (2) Any such power includes power—
 - (a) to make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient; and
 - (b) to make different provision for different purposes.
- (3) A statutory instrument containing—
 - (a) an order under section 18(4)(b)(ii)^{F1} ..., 72(11) or, except where subsection (5) applies, section 92; or
 - (b) regulations under section [F25B(3), 9A(3),][F318A(4)(b)(ii), 26(2), 38A(4)(c), 38B(6)(e), 38L(4)(c) or 38P(2)] ,is subject to annulment in pursuance of a resolution of the Parliament.
- (4) A statutory instrument containing—
 - (a) an order under section 27(5), 28(5), 70(9), 71(4) or 83; or
 - (b) regulations under section [F49B(3), 9C(6),] 36(7) [F5, 38C(1), 38D(4), 38M(1), 38O(4), 59A][F6, 74 or 74A,]is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.
- (5) A statutory instrument containing an order under section 92 which amends an Act is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

Changes to legislation: *Agricultural Holdings (Scotland) Act 2003, Part 8 is up to date with all changes known to be in force on or before 30 January 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)

- F1** Word in s. 91(3)(a) repealed (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 19\(2\)\(a\)](#) (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F2** Words in s. 91(3)(b) inserted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 19\(2\)\(b\)\(i\)](#) (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F3** Words in s. 91(3)(b) substituted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 19\(2\)\(b\)\(ii\)](#) (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F4** Words in s. 91(4)(b) inserted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 19\(2\)\(c\)\(i\)](#) (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F5** Words in s. 91(4)(b) inserted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 19\(2\)\(c\)\(ii\)](#) (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F6** Words in s. 91(4)(b) substituted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 19\(2\)\(c\)\(iii\)](#) (with s. 128); S.S.I. 2016/365, reg. 2, sch.

92 Ancillary provision

- (1) The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of or in consequence of this Act.
- (2) An order under subsection (1) may, in particular, amend provisions of any enactment which apply to 1991 Act tenancies or land held under 1991 Act tenancies so as to apply them to short limited duration tenancies [^{F7}, limited duration tenancies, modern limited duration tenancies and repairing tenancies] or land held under such tenancies.

Annotations:

Amendments (Textual)

- F7** Words in s. 92(2) substituted (23.12.2016 for specified purposes) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(29\)](#) (with s. 128); S.S.I. 2016/365, reg. 2, sch. (with reg. 15)

93 Interpretation

In this Act (unless the context requires otherwise)—

- “the 1991 Act” means the [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55\)](#);
- “1991 Act tenancy” is to be construed in accordance section 1;
- “agriculture” is to be construed in accordance with section 85 (interpretation) of the 1991 Act; and “agricultural” and “non-agricultural” are to be construed accordingly;
- “agricultural land” means land used for agriculture for the purposes of a trade or business;
- “fixed equipment” is to be construed by reference to section 85 of the 1991 Act;
- “the Land Court” means the Scottish Land Court;
- “landlord” means any person for the time being entitled to receive the rents under a lease constituting a tenancy and includes the executor, assignee, legatee, donee, guardian [^{F8}or] legal representative (within the meaning of Part I of the [Children \(Scotland\) Act 1995 \(c. 36\)](#)) [^{F9}of a landlord or the trustee or interim trustee in the sequestration, under the [Bankruptcy \(Scotland\) Act 2016](#), of a landlord’s estate;]

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[^{F10}“ limited duration tenancy ” means a tenancy—

- (a) created by virtue of section 5(1), or
- (b) converted by virtue of section 5(2), (3) or (4),

before the repeal of that section by section 85(2) of the Land Reform (Scotland) Act 2016,

“modern limited duration tenancy” is to be construed in accordance with section 5A,]

“the Parliament” means the Scottish Parliament;

[^{F11}“repairing tenancy” is to be construed in accordance with section 5C,]

“short limited duration tenancy” is to be construed in accordance with section 4;

“tenant” means the holder of land under a tenancy constituted by a lease and includes the executor, assignee, legatee, disponee, guardian [^{F12}or] legal representative (within the meaning of Part I of the Children (Scotland) Act 1995) [^{F13}of a tenant or the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a tenant's estate;]

“termination”, in relation to a tenancy, means the termination of the lease constituting the tenancy.

Annotations:

Amendments (Textual)

- F8** Word in s. 93 inserted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 8 para. 19(a)(i)** (with [ss. 232, 234\(3\), 235, 236](#)); S.S.I. 2016/294, reg. 2
- F9** Words in s. 93 substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 8 para. 19(a)(ii)** (with [ss. 232, 234\(3\), 235, 236](#)); S.S.I. 2016/294, reg. 2
- F10** Words in s. 93 substituted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), **sch. 2 para. 7(30)(a)** (with s. 128); S.S.I. 2017/299, reg. 2, sch.
- F11** Words in s. 93 inserted (23.12.2016 for specified purposes) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), **sch. 2 para. 7(30)(b)** (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F12** Word in s. 93 inserted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 8 para. 19(b)(i)** (with [ss. 232, 234\(3\), 235, 236](#)); S.S.I. 2016/294, reg. 2
- F13** Words in s. 93 substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 8 para. 19(b)(ii)** (with [ss. 232, 234\(3\), 235, 236](#)); S.S.I. 2016/294, reg. 2

94 Amendments to enactments

The schedule, which makes amendments to enactments in consequence of this Act, has effect.

Annotations:

Commencement Information

- I1** S. 94 in force at 27.11.2003 by [S.S.I. 2003/548](#), **art. 2(h)** (with [Sch.](#))

95 Short title, Crown application and commencement

- (1) This Act may be cited as the Agricultural Holdings (Scotland) Act 2003.
- (2) This Act binds the Crown.

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- (3) The provisions of this Act, except this section and sections 91, 92 and 93, come into force on such day as the Scottish Ministers may by order appoint.
- (4) Different days may be so appointed for different provisions and for different purposes.

Changes to legislation:

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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. 8F 8G 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)