



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

[^{F1}PART 2A S

SALE WHERE LANDLORD IN BREACH

Procedure for buying and valuation

[^{F1}38J Completion of sale to tenant S

- (1) The price paid for the transfer of ownership of the land to the tenant is to be paid not later than the final settlement date.
- (2) The “final settlement date” is the date on which the period, fixed or agreed under section 38F(4) or, as the case may be, specified in an order under section 38I(4)(b) (ii), expires.
- (3) Where, on the final settlement date, the seller is not able to effect the grant of a good and marketable title to the tenant—
 - (a) the price, or
 - (b) if, for any reason, the price has not been ascertained, such sum as may be fixed by the valuer appointed under section 33,is to be consigned into the Land Court until that title is granted, the tenant gives notice under section 38E(5) to the court of the tenant's decision not to proceed to complete the transaction or, as the case may be, the Land Court orders its release.
- (4) Except where subsection (3) applies, where the price remains unpaid after the date not later than which it is to be paid, the tenant's right to buy is extinguished.
- (5) Any heritable security which burdened the land immediately before title is granted to the tenant in pursuance of this section ceases to do so on the registration of that title in the Land Register of Scotland.
- (6) Where such a security also burdens land other than the land in respect of which title is granted to the tenant, the security does not, by virtue of subsection (5), cease to burden that other land.

Changes to legislation: *Agricultural Holdings (Scotland) Act 2003, Section 38J is up to date with all changes known to be in force on or before 24 April 2024. 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) View outstanding changes*

- (7) Unless the creditors holding any such security otherwise agree, the tenant must pay to them according to their respective rights and preferences any sum which would, but for this subsection, be paid to the seller by the tenant as the price for the land.
- (8) Any sum paid by a tenant under subsection (7) is to be deducted from the sum which the tenant is to pay to the seller as the price for the land.
- (9) Any legal incapacity or disability of an owner has no effect on the title passed to a tenant to which land has been sold in accordance with this Part.]

Textual Amendments

- F1** Pt. 2A inserted (23.12.2016 for specified purposes) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 100(2), 130(1)** (with s. 128); S.S.I. 2016/365, reg. 2, sch.

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