



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

PART 1

AGRICULTURAL TENANCIES

CHAPTER 1

TYPES OF TENANCY

New types of tenancy

[^{F1}5C **Repairing tenancies: creation**

- (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 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).

Changes to legislation: *Agricultural Holdings (Scotland) Act 2003, Section 5C is up to date with all changes known to be in force on or before 26 April 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. (See end of Document for details) View outstanding changes*

- (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.]

Textual Amendments

- F1** 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.

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