



Land Reform (Scotland) Act 2016

2016 asp 18

PART 10

AGRICULTURAL HOLDINGS

CHAPTER 5

RENT REVIEW

Limited duration tenancies, modern limited duration tenancies and repairing tenancies: rent review

102 Limited duration tenancies, modern limited duration tenancies and repairing tenancies: rent review

- (1) The 2003 Act is amended as follows.
- (2) In section 9 (review of rent under limited duration tenancies)—
 - (a) in subsection (A1), after “tenancy” insert “, a modern limited duration tenancy or a repairing tenancy”,
 - (b) in subsection (1), after “tenancy” insert “or a modern limited duration tenancy”,
 - (c) after subsection (1) insert—

“(1A) The rent due as payable under a lease constituting a repairing tenancy is to be reviewed and determined in accordance with this section.”,
 - (d) for subsections (2) to (8) substitute—
 - “(2) The landlord may initiate a review of the rent that is to be payable under the lease by serving a notice in writing on the tenant.
 - (3) The tenant may initiate such a review by serving a notice in writing on the landlord.
 - (4) A notice served under subsection (2) or (3) is a “rent review notice”.

- (e) the title of the section becomes “**Review of rent under limited duration tenancies, modern limited duration tenancies and repairing tenancies**”.

- (3) After section 9 insert—

“9A Form and content of rent review notice

- (1) A rent review notice must be dated and state the following—
- (a) the names and designations of the landlord and the tenant,
 - (b) the name (if any) and the address of the land comprised in the lease or such other description of the land as will identify it,
 - (c) the rent currently payable in respect of the land,
 - (d) the rent that the person serving the notice proposes should be payable,
 - (e) the date by which the landlord and the tenant must reach agreement as to what the rent payable should be (the “rent agreement date”).
- (2) The rent review notice must be accompanied by information in writing explaining the basis on which the rent proposed by the person serving the notice has been calculated.
- (3) The Scottish Ministers may by regulations make further provision about—
- (a) the form and content of rent review notices,
 - (b) the information that must or may accompany them.

9B Determination of rent

- (1) On review, the rent payable is the fair rent for the tenancy taking account of all the circumstances and having regard, in particular, to—
- (a) the productive capacity of the land comprised in the lease,
 - (b) the open market rent of any surplus residential accommodation on the land provided by the landlord, and
 - (c) the open market rent of—
 - (i) any fixed equipment on the land provided by the landlord, or
 - (ii) any land comprised in the lease,
 used for a purpose that is not an agricultural purpose.
- (2) In this section and section 9C(4)(a)(ii), the “open market rent” means the rent at which—
- (a) any surplus residential accommodation, or
 - (b) any fixed equipment or land used for a purpose that is not an agricultural purpose,
- might reasonably be expected to be let on the open market by a willing landlord to a willing tenant.
- (3) The Scottish Ministers may by regulations make provision for the purposes of this section about the productive capacity of land comprised in leases of limited duration tenancies, modern limited duration tenancies and repairing tenancies, including how the productive capacity of such land is to be determined.

Status: This is the original version (as it was originally enacted).

- (4) The rent determined in accordance with this section is to take effect from the rent agreement date.

9C Review of rent under limited duration tenancies, modern limited duration tenancies and repairing tenancies: surplus residential accommodation

- (1) Residential accommodation on land comprised in the lease of a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy is surplus to the extent that it exceeds what is necessary to provide accommodation for the standard labour requirement of the land.
- (2) In determining whether residential accommodation is surplus—
- (a) whether the standard labour requirement of the holding varies (seasonally or otherwise) may be taken into account,
 - (b) any accommodation—
 - (i) all or part of which is occupied by the tenant, or
 - (ii) which the tenant is prohibited (by the lease or otherwise) from subletting,is to be disregarded.
- (3) But any such prohibition as is mentioned in subsection (2)(b)(ii) is to be ignored if the tenant has sublet the accommodation by virtue of section 39(3).
- (4) In having regard for the purposes of section 9B(1)(b) to the open market rent for any surplus residential accommodation—
- (a) all the circumstances must be taken into account, including—
 - (i) the condition of the accommodation and its location, and
 - (ii) where accommodation is occupied by a retired agricultural worker, under an arrangement or agreement between the landlord and the tenant, at no rent or at a rent that is below what the open market rent for that accommodation would otherwise be, that fact,
 - (b) the fact that the accommodation is not currently let is to be disregarded.
- (5) Where regard is had to the open market rent for surplus residential accommodation for the purposes of section 9B(1)(b), that accommodation is to be disregarded for the purposes of section 9B(1)(c).
- (6) The Scottish Ministers may by regulations make provision about the standard labour requirement of land comprised in leases of limited duration tenancies, modern limited duration tenancies or repairing tenancies, including how the standard labour requirement of such land is to be determined.”