



Land Reform (Scotland) Act 2016

2016 asp 18

PART 10

AGRICULTURAL HOLDINGS

CHAPTER 1

MODERN LIMITED DURATION TENANCIES

Modern limited duration tenancies

85 Modern limited duration tenancies: creation

- (1) The 2003 Act is amended as follows.
- (2) Section 5 (limited duration tenancies) is repealed.
- (3) After section 5 insert—

“5A Modern limited duration tenancies

- (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 10 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, and
 - (c) the lease does not constitute a 1991 Act tenancy or a repairing tenancy, the tenancy under the lease is, by virtue of this subsection, a modern limited duration tenancy.
- (2) Where—
 - (a) at any time before the expiry of the term of a short limited duration tenancy, the landlord and the tenant agree in writing to convert the tenancy to a modern limited duration tenancy, or

Changes to legislation: Land Reform (Scotland) Act 2016, Section 85 is up to date with all changes known to be in force on or before 02 May 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

- (b) the tenant remains in occupation of the land after the expiry of the term of a short limited duration tenancy of 5 years (including such a term fixed by virtue of section 4(2) or (3)) with the consent of the landlord,

the tenancy has effect as if it were for a term of 10 years commencing at the start of the term of the short limited duration tenancy, and the tenancy is, by virtue of this subsection, a modern limited duration tenancy.

- (3) Where subsection (5) of section 4 results in a short limited duration tenancy purporting to be for a term of more than 5 years, the tenancy has effect as if it were for a term of 10 years; and the tenancy is, by virtue of this subsection, a modern limited duration tenancy.
- (4) Without prejudice to subsections (2) and (3), where a lease constituting a tenancy of agricultural land, as described in paragraphs (b) and (c) of subsection (1), purports to be for a term of more than 5 years and less than 10 years, the tenancy has effect as if it were for a term of 10 years; and the tenancy is, by virtue of this subsection, a modern limited duration tenancy.
- (5) Section 5B does not apply to a modern limited duration tenancy created under subsection (2), (3) or (4).

5B Modern limited duration tenancies: break clauses

- (1) This section applies where the tenant under a lease constituting a modern limited duration tenancy is a new entrant to farming.
- (2) The lease may contain a provision that the tenancy may be terminated after 5 years in accordance with section 8D (a “break clause”).
- (3) The Scottish Ministers may by regulations make further provision about the tenants who are new entrants for the purposes of this section.”.

Commencement Information

- I1** S. 85(1)(3) in force at 23.12.2016 for specified purposes by S.S.I. 2016/365, reg. 2, **sch.** (with regs. 3-15)
- I2** S. 85(1)(3) in force at 30.11.2017 in so far as not already in force by S.S.I. 2017/299, reg. 2, **sch.** (with reg. 5) (as amended by S.S.I. 2017/370, regs. 1, 3, 4)
- I3** S. 85(2) in force at 30.11.2017 by S.S.I. 2017/299, reg. 2, **sch.** (with reg. 4)

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.S.I. 2017/299, regs. 5-14, by [S.S.I. 2017/370 reg. 34](#)