Land Reform (Scotland) Act 2016

2016 asp 18

PART 10

AGRICULTURAL HOLDINGS

CHAPTER 2

REPAIRING TENANCIES

95 Repairing tenancies: fixed equipment

(1) The 2003 Act is amended as follows.

(2) After section 16A (as inserted by section 88) insert—

"**16B Repairing tenancies: fixed equipment**

(1) Where a lease constituting a repairing tenancy is entered into and fixed equipment is comprised in the lease, the parties must agree in writing a schedule of fixed equipment specifying—

(a) the fixed equipment which the landlord will provide during the repairing period as will enable the tenant to maintain efficient production, after the expiry of the repairing period, as respects the use of the land as specified in the lease,

(b) the condition of such fixed equipment, and

(c) any fixed equipment on the land which may be disregarded for the purposes of subsections (5) and (6),

and on being so agreed (or, failing such agreement, on being determined in accordance with section 77 or 78) the schedule of fixed equipment is deemed to form part of the lease.

(2) The schedule of fixed equipment must be agreed before the expiry of the period of 90 days beginning with the commencement of the tenancy.

(3) If at any time after the commencement of the tenancy the fixed equipment or its condition is varied, the landlord and tenant may agree to amend the schedule of fixed equipment accordingly or to substitute for it a new schedule.

(4) The cost of making and agreeing the schedule of fixed equipment under this section must, unless otherwise agreed, be borne by the landlord and tenant in equal shares.

(5) Unless the lease makes provision to the contrary, there is incorporated in every such lease an undertaking by the tenant that the tenant will, during the repairing period—

(a) provide such fixed equipment, and

(b) effect such maintenance, renewal or replacement of the fixed equipment provided by the tenant by virtue of paragraph (a) and by the landlord by virtue of subsection (1)(a),

as may be necessary to enable the tenant to maintain efficient production, after the expiry of the repairing period, as respects the use of the land as specified in the lease.

(6) Unless the lease makes provision to the contrary, there is also incorporated in every such lease—

(a) an undertaking by the landlord that the landlord will, after the expiry of the repairing period, effect such renewal or replacement of the fixed equipment specified in the schedule of fixed equipment as may be rendered necessary by natural decay or by fair wear and tear, and

(b) a provision that the liability of the tenant in relation to the maintenance of fixed equipment, after the expiry of the repairing period, extends only to a liability to maintain the fixed equipment specified in the schedule of fixed equipment in as good a state of repair (natural decay and fair wear and tear excepted) as it was in—

(i) at the expiry of the repairing period, or

(ii) in the case of equipment improved, provided, renewed or replaced, after the expiry of the repairing period, immediately after it was so improved, provided, renewed or replaced.

(7) Subsections (5) and (6) do not apply to any fixed equipment specified in the schedule of fixed equipment by virtue of subsection (1)(c).

(8) Any agreement between the landlord and tenant which purports to provide for the tenant, whether during the repairing period or after its expiry, to bear any expense of any work which the landlord is required to execute in order to fulfil the landlord's obligations under the lease is of no effect.

(9) Any term of a lease constituting a repairing tenancy that requires the tenant, whether during the repairing period or after its expiry, to pay the whole or any part of the premium due under a fire insurance policy over any fixed equipment on the land is of no effect.”.