
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 232

The Public Services Reform (Agricultural Holdings) (Scotland) Order 2011

PART 3

AMENDMENT OF THE AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

6. The 2003 Act is amended in accordance with articles 7 to 9.

Reduction in the minimum term of a limited duration tenancy from 15 years to 10 years

7.—(1) In section 5 (limited duration tenancies)—

- (a) in subsection (1)(a), for “fifteen” substitute “10”; and
- (b) in subsections (3) and (4), for “15” (wherever it appears) substitute “10”.

(2) In section 8(6) (continuation and termination of limited duration tenancies), for “fifteen” substitute “10”.

Conversion of a short limited duration to a limited duration tenancy by agreement

8. For section 5(2) (limited duration tenancies), substitute—

“(2) Where—

- (a) at any time before the expiry of the term of a short limited duration tenancy, the landlord and tenant agree in writing to convert the tenancy to a limited duration tenancy; or
- (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 limited duration tenancy.”.

Amendment to section 16 (fixed equipment)

9. For section 16(1) to (5) (fixed equipment etc.), substitute—

“(1) There is incorporated in every lease constituting a short limited duration tenancy or a limited duration tenancy an undertaking by the landlord that the landlord will—

- (a) within 6 months of the commencement of the tenancy or, where that is not reasonably practicable by virtue of any obligation on the landlord under any other enactment, as soon as reasonably practicable thereafter—

- (i) provide such fixed equipment as will enable the tenant to maintain efficient production as respects the use of the land as specified in the lease; and

(ii) put the fixed equipment so provided into the condition specified in the schedule of fixed equipment that is required by virtue of subsection (2); and

(b) during the tenancy, effect such renewal or replacement of the fixed equipment so provided as may be rendered necessary by natural decay or by fair wear and tear.

(2) Where a lease constituting a short limited duration tenancy or a limited duration 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 in terms of subsection (1)(a); and

(b) the condition of the fixed equipment,

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

(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) There is also incorporated in every such lease a provision that the liability of the tenant in relation to the maintenance of fixed equipment 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—

(a) immediately after it was put into the condition specified in the schedule of fixed equipment; or

(b) in the case of equipment improved, provided, renewed or replaced, during the tenancy, immediately after it was so improved, provided, renewed or replaced.

(5) 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.”.