



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

[^{F1}PART 2A

SALE WHERE LANDLORD IN BREACH

[^{F1}Sale to third party

Textual Amendments

F1 Pt. 2A inserted (23.12.2016 for specified purposes) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), ss. [100\(2\)](#), [130\(1\)](#) (with s. 128); S.S.I. 2016/365, reg. 2, sch.

38L Sale to third party

- (1) This section applies where a tenant's right to buy land in respect of which an order for sale has been made is extinguished under section 38E(6), 38I(4) or 38J(4).
- (2) The tenant may, before the expiry of the period mentioned in subsection (3), apply to the Land Court for the order for sale to be varied to allow the land in respect of which the order has been made to be offered for sale on the open market.
- (3) That period is the period of 28 days beginning with the date on which the right to buy was extinguished.
- (4) The tenant must give notice of the application—
 - (a) to the owner,
 - (b) where there is a heritable security over an interest in the land to which the application relates, to the creditor who holds the security,
 - (c) to such other persons as the Scottish Ministers may prescribe by regulations.
- (5) The Land Court may, if it considers it appropriate in all the circumstances, grant the application and vary the order for sale to require the land to be offered for sale on the open market.
- (6) Where—
 - (a) no application is made under subsection (2), or

Changes to legislation: Agricultural Holdings (Scotland) Act 2003, Cross Heading: Sale to third party is up to date with all changes known to be in force on or before 25 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 Land Court refuses such an application,
the order for sale ceases to have effect.

38M Procedure for sale to third party

- (1) The Scottish Ministers may by regulations make further provision about the sale of land in relation to which the Land Court has, under section 38L, varied an order for sale to allow the land to be offered for sale on the open market.
- (2) Regulations under subsection (1) may in particular include provision about—
 - (a) the appointment of a person to sell the land,
 - (b) the valuation of the land (including the appointment of a valuer, who need not be a different person to the person appointed to sell the land),
 - (c) the procedure for the sale of the land (including sale by private bargain or by public roup),
 - (d) the period within which the land is to be sold (including provision for applications to the Land Court to extend such a period),
 - (e) the persons to whom the land cannot be sold,
 - (f) the powers of the person appointed to sell the land, including powers to adjust, execute or deliver any deeds or other documents necessary to complete the transfer of ownership of the land,
 - (g) the duties of the person appointed to sell the land, which must include—
 - (i) a duty to ensure that the price at which the land is sold is the best that can reasonably be obtained, and
 - (ii) a duty to compensate any person who incurs a loss caused as a result of the appointed person's negligence in the sale of the land,
 - (h) the distribution of the proceeds of sale,
 - (i) liability for any expenses incurred by the person appointed to sell or value the land,
 - (j) reports by the person appointed to sell the land to the Land Court,
 - (k) the effect on any rights such as are mentioned in section 38D(3),
 - (l) the effect on any heritable securities which burden the land in respect of which the order for sale has been made,
 - (m) what happens if the land is not sold within a period specified in the regulations.
- (3) Regulations under subsection (1) may apply the provisions of this Act, that apply to the sale of land comprised in a lease to a tenant by virtue of an order for sale, to the sale of such land on the open market, with or without modifications.
- (4) Regulations under subsection (1) may modify any enactment (including this Act).]

Changes to legislation:

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