



# Agricultural Holdings (Scotland) Act 2003

## 2003 asp 11

### [<sup>F1</sup>PART 2A

#### SALE WHERE LANDLORD IN BREACH

#### *Application to Land Court for order for sale*

#### [<sup>F1</sup>38A Application to Land Court for order for sale

- (1) This section applies where—
  - (a) the Land Court has made an order (but not an interim order) under section 84(1)(b) requiring the landlord of a 1991 Act tenancy to remedy a material breach of the landlord's obligations in relation to the tenant, or
  - (b) an arbiter appointed under section 61A(3) of the 1991 Act has by virtue of section 61A(5) made an award having the same effect as such an order.
- (2) Subject to subsection (5), the tenant may apply to the Land Court for an order for sale if the landlord fails to comply with the order or award mentioned in subsection (1)—
  - (a) in a material regard, and
  - (b) by the date specified in the order or award by virtue of section 84(2) or, as the case may be, section 61A(5) of the 1991 Act.
- (3) An “order for sale” is an order that the tenant has the right to buy the land comprised in the lease.
- (4) The tenant must give notice of the application—
  - (a) to the landlord,
  - (b) where there is a heritable security over an interest in the land comprised in the lease, to the creditor who holds the security,
  - (c) to such other persons as the Scottish Ministers may prescribe by regulations.
- (5) Where—
  - (a) the tenant acquired a right to buy the land comprised in the lease under section 28, and
  - (b) the right to buy was extinguished under section 29(6) or 32(8),

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*Changes to legislation: Agricultural Holdings (Scotland) Act 2003, Section 38A 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*

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the tenant may apply for an order for sale only if the period of 12 months, beginning with the date on which the right to buy was extinguished, has expired.]

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**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.

**Changes to legislation:**

Agricultural Holdings (Scotland) Act 2003, Section 38A 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.

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