



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

PART 3

USE OF AGRICULTURAL LAND: DIVERSIFICATION

39 Use of land for non-agricultural purposes

- (1) A—
- (a) 1991 Act tenancy; ^{F1}...
 - (b) tenancy under a lease constituting a limited duration tenancy,
 - [^{F2}(c) tenancy under a lease constituting a modern limited duration tenancy, or
 - (d) tenancy under a lease constituting a repairing tenancy,]
- does not cease to be such a tenancy by reason only that the land is used for a non-agricultural purpose.
- (2) Any term of the lease which prohibits the use of the land for a non-agricultural purpose is of no effect.
- (3) Where—
- (a) subletting the land is prohibited (by the lease or otherwise); and
 - (b) that prohibition impedes the use of the land for a non-agricultural purpose,
- the tenant may, despite the prohibition, sublet the land provided that the purpose for which it is sublet is ancillary to the tenant's use of the land for the non-agricultural purpose.
- (4) Subsections (1) to (3) do not apply if the use of the land for a non-agricultural purpose is otherwise than has been permitted under section 40 or 41.
- (5) In this section and sections 40 and 41, any reference to the land is a reference to the whole of the land comprised in the lease constituting the tenancy or any part of it.

Textual Amendments

- F1** Word in s. 39(1) repealed (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(13\)\(a\)](#) (with s. 128); [S.S.I. 2017/299](#), reg. 2, sch. (with reg. 12)

Changes to legislation: *Agricultural Holdings (Scotland) Act 2003, Section 39 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*

F2 S. 39(1)(c)(d) inserted (30.11.2017) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 7(13)(b)** (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 12)

Commencement Information

I1 S. 39 in force at 27.11.2003 by S.S.I. 2003/548, **art. 2(c)** (with Sch.)

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