



# Agricultural Holdings (Scotland) Act 2003

## 2003 asp 11

### PART 1

#### AGRICULTURAL TENANCIES

### CHAPTER 2

#### GENERAL PROVISION AS TO NEW TYPES OF TENANCY

*[<sup>F1</sup>New types of tenancy: general provision]*

#### 7 **Assignment and subletting of limited duration tenancies**

- (1) A lease constituting a limited duration tenancy may be assigned by the tenant if, following notice under subsection (2), the landlord consents to a proposed assignment.
- (2) The tenant must give the landlord a notice in writing of any intention of the tenant to assign the lease; and the notice must include the particulars of the proposed assignee, the terms upon which the assignment is to be made and the date on which it is to take effect.
- (3) [<sup>F1</sup>Subject to subsection (3A), the] landlord may withhold consent to the proposed assignment if there are reasonable grounds for doing so; and, in particular, the landlord may withhold consent if not satisfied that the proposed assignee—
  - (a) would have the ability to pay—
    - (i) the rent due under the lease; or
    - (ii) for adequate maintenance of the land; or
  - (b) has the skills or experience that would be required properly to manage and maintain the land in accordance with the rules of good husbandry.

[<sup>F2</sup>(3A) Where the tenant proposes to assign the lease to a person who is a near relative of the tenant, the only grounds on which the landlord can withhold consent to the proposed assignment are the following—

- (a) that the person is not of good character,

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**Changes to legislation:** *Agricultural Holdings (Scotland) Act 2003, Section 7 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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- (b) that the person does not have sufficient resources to enable the person to farm the land with reasonable efficiency,
- (c) subject to subsection (3B), that the person has neither sufficient training in agriculture nor sufficient experience in the farming of land to enable the person to farm the land with reasonable efficiency.]

[<sup>F2</sup>(3B) The ground of objection in subsection (3A)(c) does not apply where the person—

- (a) is engaged in or will begin, before the expiry of the period of 6 months beginning with the date of the notice under subsection (2), a course of relevant training in agriculture which the person is expected to complete satisfactorily within 4 years from that date, and
- (b) has made arrangements to secure that the land is farmed with reasonable efficiency until the person completes that course.]

(4) Any such withholding of consent (and the grounds for withholding it) is to be intimated in writing to the tenant within 30 days of the giving of the notice under subsection (2); and, if no such intimation is made, the landlord is (except where the landlord exercises the right under subsection (5) to acquire the tenant’s interest in the lease) deemed to have consented to the proposed assignation.

(5) Where the landlord has been given notice under subsection (2), the landlord is entitled to acquire the tenant’s interest in the lease provided that—

- (a) the landlord gives the tenant notice—
  - (i) in writing; and
  - (ii) within 30 days of the giving of the notice under subsection (2), of the landlord’s intention to acquire that interest; and
- (b) the terms upon which the landlord acquires that interest are no less favourable to the tenant than any reasonable terms upon which the proposed assignation was to have been made.

[<sup>F3</sup>(5A) For the purposes of subsection (3A), “near relative”, in relation to a tenant of an agricultural holding, means—

- (a) a parent of the tenant,
- (b) a spouse or civil partner of the tenant,
- (c) a child of the tenant,
- (d) a spouse or civil partner of such a child,
- (e) a grandchild of the tenant,
- (f) a brother or sister of the tenant,
- (g) a spouse or civil partner of such a brother or sister,
- (h) a child of a brother or sister of the tenant,
- (i) a grandchild of a brother or sister of the tenant,
- (j) a brother or sister of the tenant’s spouse or civil partner,
- (k) a spouse or civil partner of such a brother or sister,
- (l) a child of such a brother or sister,
- (m) a grandchild of such a brother or sister.]

(6) For the purposes of subsection (3)(b), what is good husbandry is to be construed by reference to the Sixth Schedule to the Agriculture (Scotland) Act 1948 (c. 45).

(7) A tenant may sublet the land comprised in a lease constituting a limited duration tenancy only on such basis as the lease expressly permits.

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#### Textual Amendments

- F1** Words in s. 7(3) substituted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 104(2)(a)**, [130\(1\)](#) (with s. 128); [S.S.I. 2016/365](#), [reg. 2](#), [sch.](#) (with [reg. 4](#))
- F2** S. 7(3A)(3B) inserted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 104(2)(b)**, [130\(1\)](#) (with s. 128); [S.S.I. 2016/365](#), [reg. 2](#), [sch.](#) (with [reg. 4](#))
- F3** S. 7(5A) inserted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 104(2)(c)**, [130\(1\)](#) (with s. 128); [S.S.I. 2016/365](#), [reg. 2](#), [sch.](#) (with [reg. 4](#))

#### Commencement Information

- I1** S. 7 in force at 27.11.2003 by [S.S.I. 2003/548](#), **art. 2(a)** (with [Sch.](#))

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