



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

PART 6

RIGHTS OF CERTAIN PERSONS WHERE TENANT IS A PARTNERSHIP

72 Rights of certain persons where tenant is a limited partnership

- (1) Subsections (2) and (3) apply to a 1991 Act tenancy where the lease constituting the tenancy is entered into before the coming into force of this section and—
 - (a) the tenant is a limited partnership; and
 - (b) any limited partner is—
 - (i) the landlord or an associate of the landlord; or
 - (ii) a partnership or a company in which the landlord has a relevant interest.
- (2) Where this subsection applies, any general partner may exercise or enforce any right of a tenant conferred by virtue of Part 2 of this Act as if the partner were the tenant in the partner's own right unless the conditions mentioned in subsection (5) are met.
- (3) Where this subsection applies and the tenancy purports to be terminated as a consequence of—
 - (a) the dissolution of the partnership by notice served on or after 16th September 2002 by a limited partner mentioned in subsection (1)(b);
 - (b) the renunciation of the tenancy on or after that date by such a partner; or
 - (c) a breach of the tenancy on or after that date by such a partner,subsection (6) applies subject to subsection (4).
- (4) Subsection (6) does not apply if—
 - (a) the conditions mentioned in subsection (5) are met; or
 - (b) the Land Court makes an order under subsection (8).
- (5) For the purposes of subsections (2) and (4)(a), the conditions are—
 - (a) that—
 - (i) a (or the) notice of dissolution of the partnership has been (or was) served before 4th February 2003 by a limited partner mentioned in subsection (1)(b); and

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- (ii) the partnership has been dissolved in accordance with the notice; and
 - (b) that the land comprised in the lease—
 - (i) has been transferred or let;
 - (ii) under missives concluded before 7th March 2003, is to be transferred; or
 - (iii) under a lease entered into before that date, is to be let, to any person.
- (6) Where this subsection applies, notwithstanding the purported termination of the tenancy—
- (a) the tenancy continues to have effect; and
 - (b) any general partner becomes the tenant (or a joint tenant) under the tenancy in the partner's own right,
- if the general partner gives notice to the landlord within 28 days of the purported termination of the tenancy or within 28 days of the coming into force of this section (whichever is the later) stating that the partner intends to become the tenant (or a joint tenant) under the tenancy in the partner's own right.
- (7) Where—
- (a) a tenancy continues to have effect by virtue of subsection (6); and
 - (b) the—
 - (i) notice mentioned in paragraph (a) of subsection (3) was served before the relevant date; or
 - (ii) thing mentioned in paragraph (b) or (c) of that subsection occurred before that date,
 the landlord may, within the relevant period, apply to the Land Court for an order under subsection (8).
- (8) An order under this subsection—
- (a) is an order that subsection (6) does not apply; and
 - (b) has effect as if that subsection never applied.
- (9) The Land Court is to make such an order if (but only if) it is satisfied that—
- (a) the—
 - (i) notice mentioned in paragraph (a) of subsection (3) was served otherwise than for the purposes of depriving any general partner of any right deriving from this section; or
 - (ii) thing mentioned in paragraph (b) or (c) of that subsection occurred otherwise than for that purpose; and
 - (b) it is reasonable to make the order.
- (10) Where—
- (a) a tenancy continues to have effect by virtue of subsection (6); and
 - (b) the—
 - (i) notice mentioned in paragraph (a) of subsection (3) was served on or after the relevant date; or
 - (ii) thing mentioned in paragraph (b) or (c) of that subsection occurred on or after that date,
 section 73 applies.

- (11) For the purposes of—
- (a) subsections (7) and (10), the relevant date is such date as the Scottish Ministers may by order specify; and
 - (b) subsection (7), the relevant period is the period from the relevant date to such date as they may so specify.
- (12) In this section, the expressions, “limited partnership”, “limited partner” and “general partner” are to be construed in accordance with the Limited Partnerships Act [1907 \(c. 24\)](#).