



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

PART 1

AGRICULTURAL TENANCIES

CHAPTER 2

GENERAL PROVISION AS TO NEW TYPES OF TENANCY

[^{F1}New types of tenancy: general provision]

9 **[^{F1}Review of rent under limited duration tenancies][^{F1}Review of rent under limited duration tenancies, modern limited duration tenancies and repairing tenancies]**

[^{F2}(A1) Where, by virtue of any provision, a review of rent due as payable under a lease constituting a limited duration tenancy [^{F3}, a modern limited duration tenancy or a repairing tenancy] —

- (a) may be initiated only by the landlord; or
- (b) may only determine that the rent is to be increased,

the provision concerned is void and the rent due as payable under the lease is instead to be reviewed and determined in accordance with this section.]

- (1) Where a lease constituting a limited duration tenancy [^{F4}or a modern limited duration tenancy] makes no provision for review of rent, the rent due as payable under the lease is to be reviewed and determined in accordance with this section.

[^{F5}(1A) The rent due as payable under a lease constituting a repairing tenancy is to be reviewed and determined in accordance with this section.]

[^{F6}(2) A rent review is to take place on such date as the landlord or tenant may specify in a notice in writing to the other provided that—

- (a) the notice is given not less than one year nor more than two years before the date so specified; and
- (b) the date so specified is not less than three years—

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- (i) in the case of the first rent review, from the commencement of the tenancy; or
 - (ii) in the case of any subsequent rent review, from the date of the review under this subsection which precedes it.
- (3) On review, subject to subsections (4) to (7), the rent payable is the rent which the tenancy would reasonably be expected to fetch in the open market where there is a willing landlord and a willing tenant—
 - (a) disregarding—
 - (i) any effect on rent due to the fact that the tenant is in occupation of the land; and
 - (ii) any distortion in rent due to a scarcity of lets; and
 - (b) having regard to—
 - (i) the terms of the tenancy (other than those relating to rent);
 - (ii) information about rents for other agricultural tenancies (including when fixed) and any factors affecting those rents (or any of them) except any distortion due to a scarcity of lets; and
 - (iii) the current economic conditions in the relevant sector of agriculture.
- (4) Account is to be taken of any increase in the rental value of the land resulting from the use of the land for a purpose that is not an agricultural purpose.
- (5) No account is to be taken of any increase in the rental value of the land resulting from improvements—
 - (a) so far as—
 - (i) they have been carried out wholly or partly at the expense of the tenant (whether or not that expense has been or will be reimbursed by any grant) without equivalent allowance or benefit having been made or given by the landlord in consideration of their execution; and
 - (ii) they have not been carried out under an obligation imposed on the tenant by the terms of the lease; and
 - (b) which have been carried out by the landlord, in so far as the landlord has received or will receive any grant in respect of them,

nor may the rent be determined to be a higher amount than would have been payable if those improvements had not been so carried out.
- (6) For the purposes of subsection (5)—
 - (a) subject to paragraph (b), “improvements” is to be construed by reference to Schedule 5 to the 1991 Act; and
 - (b) the continuous adoption by the tenant of a standard of farming or a system of farming more beneficial to the land than the standard or system required by the terms of the lease or, in so far as no system of farming is so required, than the system of farming normally practised on comparable agricultural land in the district, is to be treated as an improvement executed at the tenant’s expense.
- (7) No account is to be taken of—
 - (a) any reduction in the rental value of the land as a result of any dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the tenant; or
 - (b) any such reduction resulting from—

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- (i) the use of any of the land, or changes to the land, for a purpose that is not an agricultural purpose; or
 - (ii) the carrying out of conservation activities on the land.
- (8) The rent determined in accordance with this section is to take effect from the date of the rent review.]
- [^{F6}(2) The landlord may initiate a review of the rent that is to be payable under the lease by serving a notice in writing on the tenant.
- (3) The tenant may initiate such a review by serving a notice in writing on the landlord.
- (4) A notice served under subsection (2) or (3) is a “rent review notice”.]

Textual Amendments

- F1** S. 9 heading substituted (23.12.2016 for the purpose of making regulations under s. 9A(3), 9B(3) and 9C(6) and otherwise prosp.) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 102(2)(e)**, 130(1) (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F2** S. 9(A1) inserted (12.9.2012) by [Agricultural Holdings \(Amendment\) \(Scotland\) Act 2012 \(asp 6\)](#), **ss. 2, 5(2)** (with s. 4(2))
- F3** Words in s. 9(A1) inserted (23.12.2016 for the purpose of making regulations under s. 9A(3), 9B(3) and 9C(6) and otherwise prosp.) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 102(2)(a)**, 130(1) (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F4** Words in s. 9(1) inserted (23.12.2016 for the purpose of making regulations under s. 9A(3), 9B(3) and 9C(6) and otherwise prosp.) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 102(2)(b)**, 130(1) (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F5** S. 9(1A) inserted (23.12.2016 for the purpose of making regulations under s. 9A(3), 9B(3) and 9C(6) and otherwise prosp.) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 102(2)(c)**, 130(1) (with s. 128); S.S.I. 2016/365, reg. 2, sch.
- F6** S. 9(2)-(4) substituted for s. 9(2)-(8) (23.12.2016 for the purpose of making regulations under s. 9A(3), 9B(3) and 9C(6) and otherwise prosp.) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 102(2)(d)**, 130(1) (with s. 128); S.S.I. 2016/365, reg. 2, sch.

Modifications etc. (not altering text)

- C1** S. 9(1)(A1) modified (temp.) (30.11.2017) by [The Land Reform \(Scotland\) Act 2016 \(Supplementary, Consequential, Transitory and Saving Provisions\) Regulations 2017 \(S.S.I. 2017/416\)](#), reg. 1(1), **sch. 2 para. 8**

Commencement Information

- I1** S. 9 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\(4\)\(c\)](#)