



# 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]*

#### **[<sup>F1</sup>9C Review of rent under limited duration tenancies, modern limited duration tenancies and repairing tenancies: surplus residential accommodation**

- (1) Residential accommodation on land comprised in the lease of a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy is surplus to the extent that it exceeds what is necessary to provide accommodation for the standard labour requirement of the land.
- (2) In determining whether residential accommodation is surplus—
  - (a) whether the standard labour requirement of the holding varies (seasonally or otherwise) may be taken into account,
  - (b) any accommodation—
    - (i) all or part of which is occupied by the tenant, or
    - (ii) which the tenant is prohibited (by the lease or otherwise) from subletting,is to be disregarded.
- (3) But any such prohibition as is mentioned in subsection (2)(b)(ii) is to be ignored if the tenant has sublet the accommodation by virtue of section 39(3).
- (4) In having regard for the purposes of section 9B(1)(b) to the open market rent for any surplus residential accommodation—
  - (a) all the circumstances must be taken into account, including—
    - (i) the condition of the accommodation and its location, and

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**Changes to legislation:** *Agricultural Holdings (Scotland) Act 2003, Section 9C is up to date with all changes known to be in force on or before 26 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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- (ii) where accommodation is occupied by a retired agricultural worker, under an arrangement or agreement between the landlord and the tenant, at no rent or at a rent that is below what the open market rent for that accommodation would otherwise be, that fact,
  - (b) the fact that the accommodation is not currently let is to be disregarded.
- (5) Where regard is had to the open market rent for surplus residential accommodation for the purposes of section 9B(1)(b), that accommodation is to be disregarded for the purposes of section 9B(1)(c).
- (6) The Scottish Ministers may by regulations make provision about the standard labour requirement of land comprised in leases of limited duration tenancies, modern limited duration tenancies or repairing tenancies, including how the standard labour requirement of such land is to be determined.]

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#### **Textual Amendments**

- F1** Ss. 9A-9C inserted (23.12.2016 for specified purposes) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), [ss. 102\(3\), 130\(1\)](#) (with [s. 128](#)); [S.S.I. 2016/365, reg. 2, 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\(4\)\(c\)](#)