



Land Reform (Scotland) Act 2016

2016 asp 18

PART 10

AGRICULTURAL HOLDINGS

CHAPTER 9

IMPROVEMENTS BY LANDLORD

119 Notice required for certain improvements by landlord

- (1) The 1991 Act is amended as follows.
- (2) After section 14 insert—

“14A Landlord improvement notices

- (1) This section applies where the landlord of an agricultural holding intends to carry out a relevant improvement.
- (2) A “relevant improvement” is an improvement specified in schedule 5 which is not intended to be carried out—
 - (a) at the request of or in agreement with the tenant,
 - (b) in pursuance of an undertaking given by landlord under section 39(3), or
 - (c) in pursuance of a direction given by the Scottish Ministers under powers conferred on them by or under any enactment.
- (3) The landlord must give notice in writing to the tenant before carrying out the relevant improvement, unless section 14F applies.
- (4) A notice served in accordance with this section is a “landlord improvement notice”.
- (5) A landlord improvement notice must be dated and state the following—
 - (a) the names and designations of the landlord and the tenant,

Status: This is the original version (as it was originally enacted).

- (b) the name (if any) and the address of the holding or such other description of the holding as will identify it,
- (c) details of the intended improvement, including the manner of the improvement,
- (d) the landlord's reasons as to why the improvement is necessary to enable the tenant to fulfil the tenant's responsibilities to farm the holding in accordance with the rules of good husbandry.

14B Objection by tenant

- (1) Where the landlord has given a landlord improvement notice under section 14A, the tenant may object to the improvement or to part of it by giving notice in writing to the landlord before the end of the period of 2 months beginning with the day on which the tenant received the landlord improvement notice.
- (2) A notice under subsection (1) must be dated and must state the tenant's reasons as to why the improvement is not necessary to enable the tenant to fulfil the tenant's responsibilities to farm the holding in accordance with the rules of good husbandry.

14C Referral to Land Court

- (1) Where the tenant has given notice of objection under section 14B the landlord may, before the end of the period of 2 months beginning with the day on which the landlord received the notice of objection, apply to the Land Court for approval of the relevant improvement.
- (2) The Land Court may—
 - (a) approve the carrying out of the relevant improvement—
 - (i) unconditionally, or
 - (ii) upon such terms as appear to it to be appropriate, or
 - (b) withhold its approval.
- (3) Before approving a relevant improvement, the Land Court must be satisfied that the improvement is necessary to enable the tenant to fulfil the tenant's responsibilities to farm the holding in accordance with the rules of good husbandry.

14D Notice of dates of improvement

- (1) This section applies where an improvement is to be carried out by the landlord—
 - (a) at the request of or in agreement with the tenant,
 - (b) in pursuance of an undertaking given by the landlord under section 39(3),
 - (c) in pursuance of a direction given by the Scottish Ministers under powers conferred on them by or under any enactment, or
 - (d) after the landlord has given a landlord improvement notice in accordance with section 14A and—

Status: This is the original version (as it was originally enacted).

- (i) the tenant has not given notice of objection in accordance with section 14B, or
 - (ii) the tenant has given such notice of objection but the Land Court has approved the improvement under section 14C(2)
 - (a).
- (2) The landlord must give notice in writing to the tenant stating the period during which the landlord intends to carry out the improvement.
- (3) Unless the landlord and tenant agree otherwise, that period must not commence earlier than the expiry of 2 weeks beginning with the day on which the landlord gives notice under subsection (2).
- (4) Where the landlord has not begun to carry out an improvement, notice of which has been given under subsection (2), and there is a good reason for postponing the carrying out of the improvement, the landlord may give a new notice under subsection (2).
- (5) Subsection (6) applies where the landlord has begun to carry out an improvement, notice of which has been given under subsection (2), and there is a good reason for extending the period during which the improvement is to be carried out.
- (6) The landlord may, at any time before the expiry of the period stated in the notice under subsection (2), extend the period by giving notice in writing to the tenant stating the extended period during which the landlord intends to carry out the improvement.
- (7) See section 14F on emergency improvements.

14E Improvement by landlord without notice etc.

- (1) Subsection (2) applies where a landlord has carried out an improvement and—
 - (a) the landlord did not give notice of the improvement to the tenant in accordance with section 14A,
 - (b) the tenant objected to the improvement under section 14B and the Land Court has not approved the improvement under section 14C(2)
 - (a),
 - (c) the improvement is in breach of any decision of the Land Court under section 14C,
 - (d) the improvement was not an emergency improvement as defined in section 14F.
- (2) Any such improvement is to be disregarded for the purposes of—
 - (a) assessing the tenant's responsibilities—
 - (i) in relation to farming the holding in accordance with the rules of good husbandry,
 - (ii) in relation to fixed equipment under section 5(2)(b)(ii).
 - (b) any subsequent rent review under schedule 1A.

Status: This is the original version (as it was originally enacted).

14F Emergency improvements

- (1) Where a landlord or a tenant considers that an emergency improvement is required, sections 14A(3) and 14D(2), (3), (5) and (6) do not apply.
- (2) In this section an “emergency improvement” means a relevant improvement that is necessary for the purposes of—
 - (a) protecting public health from infectious diseases, contamination or other hazards which constitute a danger to human health,
 - (b) preventing a danger or potential danger to public safety,
 - (c) enabling the tenant to comply with the requirements of the Animal Health and Welfare (Scotland) Act 2006,
 - (d) securing the provision of essential services including electricity and water supply services, or
 - (e) remedying an accident or natural cause or force majeure which was exceptional and could not reasonably have been foreseen.”.
- (3) The 2003 Act is amended as follows.
- (4) After section 10 insert—

“10A Landlord improvement notices

- (1) This section applies where the landlord of—
 - (a) a short limited duration tenancy within the meaning of section 4,
 - (b) a limited duration tenancy within the meaning of section 5,
 - (c) a modern limited duration tenancy within the meaning of section 5A, or
 - (d) subject to subsection (2), a repairing tenancy within the meaning of section 5C,
 intends to carry out a relevant improvement.
- (2) Subsection (1) does not apply in respect of the landlord of a repairing tenancy in relation to which the repairing period has not expired.
- (3) A “relevant improvement” is an improvement specified in schedule 5 of the 1991 Act which is not intended to be carried out—
 - (a) at the request of or in agreement with the tenant,
 - (b) in pursuance of an undertaking given by landlord under section 49(2) (as read with section 39(3) of the 1991 Act), or
 - (c) in pursuance of a direction given by the Scottish Ministers under powers conferred on them by or under any enactment.
- (4) The landlord must give notice in writing to the tenant before carrying out the relevant improvement, unless section 10F applies.
- (5) A notice served in accordance with this section is a “landlord improvement notice”.
- (6) A landlord improvement notice must be dated and state the following—
 - (a) the names and designations of the landlord and the tenant,

Status: This is the original version (as it was originally enacted).

- (b) the name (if any) and the address of the land comprised in the lease or such other description of the land as will identify it,
 - (c) details of the intended improvement, including the manner of the improvement,
 - (d) the landlord's reasons as to why the improvement is necessary to enable the tenant to fulfil the tenant's responsibilities to farm the land comprised in the lease in accordance with the rules of good husbandry.
- (7) In this section and in sections 10B to 10F, what is good husbandry is to be construed by reference to schedule 6 of the Agriculture (Scotland) Act 1948.

10B Objection by tenant

- (1) Where the landlord has given a landlord improvement notice under section 10A, the tenant may object to the improvement or to part of it by giving notice in writing to the landlord before the end of the period of 2 months beginning with the day on which the tenant received the landlord improvement notice.
- (2) A notice under subsection (1) must be dated and must state the tenant's reasons as to why the improvement is not necessary to enable the tenant to fulfil the tenant's responsibilities to farm the land comprised in the lease in accordance with the rules of good husbandry.

10C Referral to Land Court

- (1) Where the tenant has given notice of objection under section 10B the landlord may, before the end of the period of 2 months beginning with the day on which the landlord received the notice of objection, apply to the Land Court for approval of the relevant improvement.
- (2) The Land Court may—
 - (a) approve the carrying out of the relevant improvement—
 - (i) unconditionally, or
 - (ii) upon such terms as appear to it to be appropriate, or
 - (b) withhold its approval.
- (3) Before approving a relevant improvement, the Land Court must be satisfied that the improvement is necessary to enable the tenant to fulfil the tenant's responsibilities to farm the land comprised in the lease in accordance with the rules of good husbandry.

10D Notice of dates of improvement

- (1) This section applies where an improvement is to be carried out by the landlord—
 - (a) at the request of or in agreement with the tenant,
 - (b) in pursuance of an undertaking given by the landlord under section 49(2),
 - (c) in pursuance of a direction given by the Scottish Ministers under powers conferred on them by or under any enactment, or

Status: This is the original version (as it was originally enacted).

- (d) after the landlord has given a landlord improvement notice in accordance with section 10A and—
 - (i) the tenant has not given notice of objection in accordance with section 10B, or
 - (ii) the tenant has given such notice of objection but the Land Court has approved the improvement under section 10C(2)(a).
- (2) The landlord must give notice in writing to the tenant stating the period during which the landlord intends to carry out the improvement.
- (3) Unless the landlord and tenant agree otherwise, that period must not commence earlier than the expiry of 2 weeks beginning with the day on which the landlord gives notice under subsection (2).
- (4) Where the landlord has not begun to carry out an improvement, notice of which has been given under subsection (2), and there is a good reason for postponing the carrying out of the improvement, the landlord may give a new notice under subsection (2).
- (5) Subsection (6) applies where the landlord has begun to carry out an improvement, notice of which has been given under subsection (2), and there is a good reason for extending the period during which the improvement is to be carried out.
- (6) The landlord may, at any time before the expiry of the period stated in the notice under subsection (2), extend the period by giving notice in writing to the tenant stating the extended period during which the landlord intends to carry out the improvement.
- (7) See section 10F on emergency improvements.

10E Improvement by landlord without notice etc.

- (1) Subsection (2) applies where a landlord has carried out an improvement and—
 - (a) the landlord did not give notice of the improvement to the tenant in accordance with section 10A,
 - (b) the tenant objected to the improvement under section 10B and the Land Court has not approved the improvement under section 10C(2)(a),
 - (c) the improvement is in breach of any decision of the Land Court under section 10C,
 - (d) the improvement was not an emergency improvement as defined in section 10F.
- (2) Any such improvement is to be disregarded for the purposes of—
 - (a) assessing the tenant’s responsibilities—
 - (i) in relation to farming the land comprised in the lease in accordance with the rules of good husbandry,
 - (ii) in relation to fixed equipment under sections 16(4)(b) and 16A(5)(b)(ii),
 - (b) any subsequent rent review under section 9.

10F Emergency improvements

- (1) Where a landlord or a tenant considers that an emergency improvement is required, sections 10A(4) and 10D(2), (3), (5) and (6) do not apply.
- (2) In this section an “emergency improvement” means a relevant improvement that is necessary for the purposes of—
 - (a) protecting public health from infectious diseases, contamination or other hazards which constitute a danger to human health,
 - (b) preventing a danger or potential danger to public safety,
 - (c) enabling the tenant to comply with the requirements of the Animal Health and Welfare (Scotland) Act 2006,
 - (d) securing the provision of essential services including electricity and water supply services, or
 - (e) remedying an accident or natural cause or force majeure which was exceptional and could not reasonably have been foreseen.”.