



Land Reform (Scotland) Act 2016

2016 asp 18

PART 10

AGRICULTURAL HOLDINGS

CHAPTER 10

DIVERSIFICATION

121 Use of land for non-agricultural purposes: objection to notice of diversification

(1) The 2003 Act is amended as follows.

(2) In section 40—

- (a) in subsection (1), for “section 41” substitute “in sections 40A and 41”,
- (b) after subsection (5) insert—

“(5A) Where the landlord objects to the notice of diversification, the land may be used for the purpose specified under paragraph (a), and as specified under paragraphs (b) and (c), of subsection (2)—

- (a) only if—
 - (i) the landlord withdraws the objection,
 - (ii) the landlord does not apply under section 40A for a determination in relation to the objection, or
 - (iii) such an application having been made, the Land Court determines under section 41 that the objection is unreasonable,
- (b) from the relevant date, and
- (c) subject to any conditions imposed—
 - (i) by the landlord under subsection (14), or
 - (ii) by the Land Court under section 41(2) or (3).

(5B) For the purposes of subsection (5A)(b), the relevant date is—

- (a) where no application is made under section 40A—
 - (i) the date specified under subsection (2)(d),

Status: This is the original version (as it was originally enacted).

- (ii) if the objection is withdrawn, the date of the withdrawal,
 - (iii) the date the period mentioned in section 40A(3) expires,
- whichever is the later,
- (b) where an application is made under section 40A, the date fixed by the Land Court under section 41(1)(b)(ii).”,
- (c) after subsection (13) insert—
- “(14) Where the landlord withdraws the objection under subsection (9) before the expiry of the period mentioned in section 40A(3), the landlord—
- (a) must notify the tenant in writing of the withdrawal, and
 - (b) may impose any conditions as mentioned in subsection (10) and, where such conditions are imposed, must, at the same time as notifying the tenant of the withdrawal of the objection, notify the tenant in writing of the conditions (and the reasons for imposing them).”.
- (3) After that section insert—

“40A Landlord’s objection: application to Land Court

- (1) This section applies where the landlord gives notice of an objection under section 40(11)(a) to a notice of diversification.
 - (2) The landlord may, before the expiry of the period mentioned in subsection (3), apply to the Land Court for a determination under section 41 that the objection is reasonable.
 - (3) That period is 60 days from the giving of notice of the objection under section 40(11)(a).
 - (4) The objection ceases to have effect—
 - (a) on the expiry of the period mentioned in subsection (3) unless the landlord applies, before the expiry of that period, to the Land Court under subsection (2), or
 - (b) if it is withdrawn before the expiry of that period, no such application having been made.”.
- (4) In section 41—
- (a) in subsection (1), after “Where” insert “, on an application made by the landlord under section 40A(2),”,
 - (b) in subsection (2), for “40(4)(a)” substitute “40(4)(a) or (5A)”,
 - (c) in subsection (3)—
 - (i) after “Where” insert “, on the application of the tenant,”,
 - (ii) after “section 40(10)” insert “or, as the case may be, (14)”.