



# Land Reform (Scotland) Act 2016

## 2016 asp 18

### PART 10

#### AGRICULTURAL HOLDINGS

#### CHAPTER 1

#### MODERN LIMITED DURATION TENANCIES

#### *Modern limited duration tenancies*

#### **88 Modern limited duration tenancies: fixed equipment**

- (1) The 2003 Act is amended as follows.
- (2) After section 16 insert—

#### **“16A Modern limited duration tenancies: fixed equipment etc.**

- (1) There is incorporated in every lease constituting a modern limited duration tenancy an undertaking by the landlord that the landlord will, within 6 months of the commencement of the tenancy or, where that is not reasonably practicable by virtue of any obligation on the landlord under any other enactment, as soon as reasonably practicable thereafter—
  - (a) provide such fixed equipment as will enable the tenant to maintain efficient production as respects the use of the land as specified in the lease, and
  - (b) put the fixed equipment so provided into the condition specified in the schedule of fixed equipment that is required by virtue of subsection (2).
- (2) Where a lease constituting a modern limited duration tenancy is entered into and fixed equipment is comprised in the lease, the parties must agree in writing a schedule of fixed equipment specifying—

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**Changes to legislation:** *Land Reform (Scotland) Act 2016, Section 88 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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- (a) the fixed equipment which the landlord will provide in terms of subsection (1)(a), and
  - (b) the condition of the fixed equipment,
- and on being so agreed (or, failing such agreement, on being determined in accordance with section 77 or 78) the schedule of fixed equipment is deemed to form part of the lease.
- (3) The schedule of fixed equipment must be agreed before the expiry of the period of 90 days beginning with the commencement of the tenancy.
- (4) If at any time after the commencement of the tenancy the fixed equipment or its condition is varied, the landlord and tenant may agree to amend the schedule of fixed equipment accordingly or to substitute for it a new schedule.
- (5) Unless the lease makes provision to the contrary, there is also incorporated in every such lease—
- (a) an undertaking by the landlord that the landlord will, during the tenancy, effect such renewal or replacement of the fixed equipment provided as required by virtue of subsection (1) as may be rendered necessary by natural decay or by fair wear and tear, and
  - (b) a provision that the liability of the tenant in relation to the maintenance of fixed equipment extends only to a liability to maintain the fixed equipment specified in the schedule of fixed equipment in as good a state of repair (natural decay and fair wear and tear excepted) as it was in—
    - (i) immediately after it was put into the condition specified in the schedule of fixed equipment, or
    - (ii) in the case of equipment improved, provided, renewed or replaced, during the tenancy, immediately after it was so improved, provided, renewed or replaced.
- (6) The cost of making and agreeing the schedule of fixed equipment under this section must, unless otherwise agreed, be borne by the landlord and tenant in equal shares.
- (7) Any agreement between the landlord and tenant which purports to provide for the tenant to bear any expense of any work which the landlord is required to execute in order to fulfil the landlord's obligations under the lease is of no effect.
- (8) Any term of a lease constituting a modern limited duration tenancy that requires the tenant to pay the whole or any part of the premium due under a fire insurance policy over any fixed equipment on the land is of no effect.”.

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**Commencement Information**

**II** [S. 88](#) in force at 30.11.2017 by [S.S.I. 2017/299](#), [reg. 2](#), [sch.](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.S.I. 2017/299, regs. 5-14, by [S.S.I. 2017/370 reg. 34](#)