



# 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]*

#### 17 Resumption of land by landlord

- (1) The landlord may resume the land or any part of the land comprised in a lease constituting a short limited duration tenancy or [<sup>F1</sup>, a limited duration tenancy or a modern limited duration tenancy] if (and only if)—
  - (a) the resumption is for a non-agricultural purpose in respect of which permission requires to be obtained, and has been obtained, under the enactments relating to town and country planning by—
    - (i) in the case of a short limited duration tenancy, any person (including the tenant);
    - (ii) in the case of a limited duration tenancy [<sup>F2</sup>or a modern limited duration tenancy], any person apart from the tenant;
  - (b) the lease does not expressly prohibit resumption for that purpose; and
  - (c) notice as mentioned in subsection (2) has been given.
- (2) The landlord must give the tenant notice of any intention of the landlord so to resume any land; and the notice must—
  - (a) be in writing;
  - (b) be given not less than 1 year before the date on which the resumption is to take place; and
  - (c) specify that date.
- (3) Where notice is given under subsection (2) for resumption of part of the land, the tenant may, within 28 days after—

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**Changes to legislation:** *Agricultural Holdings (Scotland) Act 2003, Section 17 is up to date with all changes known to be in force on or before 14 August 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 giving of the notice; or
- (b) the determination of any matter arising from the notice,

whichever is the later, terminate the tenancy by giving notice in writing to the landlord; and the termination takes effect on the date specified under subsection (2)(c).

(4) Where the landlord resumes part of the land under this section, the tenant is entitled to a reduction in rent—

- (a) of an amount proportionate to that part; and
- (b) of an amount in respect of any depreciation of the value to the tenant of the remainder of the land caused by the resumption of the part or any use made of the part,

but where paragraph (a) applies, in determining the amount of the reduction, account is to be taken of any benefit or relief allowed to the tenant under the lease in respect of the part resumed.

(5) Where—

- (a) part of the land has been resumed under this section for a purpose mentioned in paragraph (f) (which specifies certain forms of mineral exploitation) of subsection (2) of section 29 of the 1991 Act (that paragraph applying for the purposes of this subsection as it does for the purposes of that section); and
- (b) the land which formed that part has subsequently been made suitable for, and is available for, agricultural use,

that land is, if the conditions in subsection (6) are fulfilled, to be restored to the tenancy.

(6) The conditions are that—

- (a) the tenancy continues in effect with the same landlord and tenant under the lease; and
- (b) any compensation paid to the tenant in consequence of the resumption was calculated on the basis that the land would be restored under subsection (5).

#### **Textual Amendments**

- F1** Words in s. 17(1) substituted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(9\)\(a\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch.
- F2** Words in s. 17(1)(ii) inserted (30.11.2017) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 2 para. 7\(9\)\(b\)](#) (with s. 128); S.S.I. 2017/299, reg. 2, sch.

#### **Commencement Information**

- I1** S. 17 in force at 27.11.2003 by [S.S.I. 2003/548](#), [art. 2\(a\)](#) (with Sch.)

**Changes to legislation:**

Agricultural Holdings (Scotland) Act 2003, Section 17 is up to date with all changes known to be in force on or before 14 August 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.

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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\(4\)\(c\)](#)