
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Land Reform (Scotland) Act 2016 (“the 2016 Act”) inserted a new Part 3A into the Agricultural Holdings (Scotland) Act 1991 (“the 1991 Act”) to provide for a process whereby a 1991 Act tenant can relinquish their tenancy to the landlord in exchange for compensation or, if the landlord does not buy them out, can assign the tenancy to a new entrant or a person progressing in farming, for the tenancy’s market value (referred to in this note as “the Part 3A process”).

Section 111 of the 2016 Act inserted section 74A into the Agricultural Holdings (Scotland) Act 2003 (“the 2003 Act”). Section 74A provides that the Scottish Ministers may make regulations that, among other things, apply the Part 3A process to tenants in certain types of partnership with appropriate modifications.

These Regulations make provision under section 74A to apply the Part 3A process with modifications where the tenant of an agricultural holding is a limited partnership in which the limited partner is the landlord, an associate of the landlord, or a partnership or company in which the landlord has a relevant interest.

Part 1 of these Regulations deals with the citation, commencement and interpretation of the Regulations.

Part 2 of these Regulations provides for the application of Part 3A of the 1991 Act to relevant partnerships.

Regulation 2 sets out what a relevant partnership is for the purposes of these Regulations. A relevant partnership is a limited partnership where the limited partner is the landlord, an associate of the landlord, or partnership or company in which the landlord has a relevant interest.

Regulation 2(3) sets out when a landlord is treated as having a relevant interest in a partnership or company that is a limited partner in a relevant partnership. For example, a landlord is treated as having a relevant interest if they own shares in a company which is a limited partner in a relevant partnership.

Regulation 2(4) sets out who is an associate of a landlord. This can include, for example, a member of the landlord’s family (as defined in section 71 of the 2003 Act).

Regulation 3 lists the modifications which will apply to Part 3A of the 1991 Act where the tenant is a relevant partnership. These modifications have the effect that a tenant in a relevant partnership will not be able to assign the tenancy to a new entrant or person progressing in farming. Tenants will still be able to relinquish the tenancy to the landlord in exchange for compensation.