



Agricultural Holdings (Scotland) Act 1991

1991 CHAPTER 55

PART II

TERMS OF LEASES AND VARIATIONS THEREOF

[^{F1}10A [^{F2}Assignment of tenancy]

(1) A lease of an agricultural holding may be assigned by the tenant to [^{F3}any one of the persons mentioned in subsection (1A)] if, following notice under subsection (2), the landlord consents to a proposed assignment.

[The persons referred to in subsection (1) are—

- ^{F4}(1A)
- (a) any person who would be, or would in any circumstances have been, entitled to succeed to the tenant's estate on intestacy by virtue of the Succession (Scotland) Act 1964,
 - (b) a spouse or civil partner of a child of the tenant,
 - (c) a spouse or civil partner of a grandchild of the tenant,
 - (d) a spouse or civil partner of a brother or sister of the tenant,
 - (e) a brother or sister of the tenant's spouse or civil partner,
 - (f) a spouse or civil partner of such a brother or sister,
 - (g) a child (including a step-child) of such a brother or sister,
 - (h) a grandchild (including a step-grandchild) of such a brother or sister,
 - (i) a step-child of the tenant,
 - (j) a spouse or civil partner of such a step-child,
 - (k) a descendant of such a step-child,
 - (l) a step-brother or step-sister of the tenant,
 - (m) a spouse or civil partner of such a step-brother or step-sister,
 - (n) a descendant of such a step-brother or step-sister.]

(2) The tenant must give the landlord a notice in writing of any intention of the tenant to assign the lease; and the notice must include the particulars of the proposed assignee,

Changes to legislation: There are currently no known outstanding effects for the Agricultural Holdings (Scotland) Act 1991, Section 10A. (See end of Document for details)

the terms upon which the assignation is to be made and the date on which it is to take effect.

- (3) [^{F5}Subject to subsection (3A), the] landlord may withhold consent to the proposed assignation if there are reasonable grounds for doing so; and, in particular the landlord may withhold consent if not satisfied that the proposed assignee—
- (a) would have the ability to pay—
 - (i) the rent due under the lease; or
 - (ii) for adequate maintenance of the land; or
 - (b) has the skills or experience that would be required properly to manage and maintain the land in accordance with the rules of good husbandry.
- [Where the tenant proposes to assign the lease to a person who is a near relative of the ^{F6}(3A) tenant, the only grounds on which the landlord can withhold consent to the proposed assignation are the following—
- (a) that the person is not of good character,
 - (b) that the person does not have sufficient resources to enable the person to farm the holding with reasonable efficiency,
 - (c) subject to subsection (3B), that the person has neither sufficient training in agriculture nor sufficient experience in the farming of land to enable the person to farm the holding with reasonable efficiency.
- (3B) The ground of objection in subsection (3A)(c) does not apply where the person—
- (a) is engaged in or will begin, before the expiry of the period of 6 months beginning with the date of the notice under subsection (2), a course of relevant training in agriculture which the person is expected to complete satisfactorily within 4 years from that date, and
 - (b) has made arrangements to secure that the holding is farmed with reasonable efficiency until the person completes that course.]
- (4) Any such withholding of consent (and the grounds for withholding it) is to be intimated in writing to the tenant within 30 days of the giving of the notice under subsection (2); and, if no such intimation is made, the landlord is deemed to have consented to the proposed assignation.
- (5) Any term of a lease or of an agreement between the landlord and tenant which purports to provide that the lease of an agricultural holding may not be assigned under this section shall, in so far as it so purports, be null and void.]
- [^{F7}(6) In this section and in sections 12A and 12B, “near relative”, in relation to a tenant of an agricultural holding, means—
- (a) a parent of the tenant,
 - (b) a spouse or civil partner of the tenant,
 - (c) a child of the tenant,
 - (d) a spouse or civil partner of such a child,
 - (e) a grandchild of the tenant,
 - (f) a brother or sister of the tenant,
 - (g) a spouse or civil partner of such a brother or sister,
 - (h) a child of a brother or sister of the tenant,
 - (i) a grandchild of a brother or sister of the tenant,
 - (j) a brother or sister of the tenant's spouse or civil partner,

Changes to legislation: There are currently no known outstanding effects for the Agricultural Holdings (Scotland) Act 1991, Section 10A. (See end of Document for details)

- (k) a spouse or civil partner of such a brother or sister,
- (l) a child of such a brother or sister,
- (m) a grandchild of such a brother or sister.]

Textual Amendments

- F1** S. 10A inserted (27.11.2003) by [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), **ss. 66**, 95(3), 95(4) (with s. 95(2)); [S.S.I. 2003/548](#), art. 2(e) (with Sch.)
- F2** S. 10A heading substituted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), **sch. 2 para. 18(2)** (with s. 128); [S.S.I. 2016/365](#), reg. 2, sch.
- F3** Words in s. 10A(1) substituted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 103(2)**, 130(1) (with s. 128); [S.S.I. 2016/365](#), reg. 2, sch. (with reg. 3)
- F4** S. 10A(1A) inserted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 103(3)**, 130(1) (with s. 128); [S.S.I. 2016/365](#), reg. 2, sch. (with reg. 3)
- F5** Words in s. 10A(3) substituted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 103(4)**, 130(1) (with s. 128); [S.S.I. 2016/365](#), reg. 2, sch. (with reg. 3)
- F6** S. 10A(3A)(3B) inserted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 103(5)**, 130(1) (with s. 128); [S.S.I. 2016/365](#), reg. 2, sch. (with reg. 3)
- F7** S. 10A(6) inserted (23.12.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 103(6)**, 130(1) (with s. 128); [S.S.I. 2016/365](#), reg. 2, sch. (with reg. 3)

Changes to legislation:

There are currently no known outstanding effects for the Agricultural Holdings (Scotland) Act 1991, Section 10A.