



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

PART 1

AGRICULTURAL TENANCIES

CHAPTER 2

GENERAL PROVISION AS TO NEW TYPES OF TENANCY

Succession to short limited duration tenancies and limited duration tenancies

20 Section 16 of the Succession (Scotland) Act 1964

In section 16 (provisions relating to leases) of the Succession (Scotland) Act 1964 (c. 41) (in sections 21 to 23 referred to as “the 1964 Act”), after subsection (4) there is inserted—

“(4A) Where an interest, being an interest under a lease constituting a short limited duration tenancy or a limited duration tenancy—

- (a) is not the subject of a valid bequest by the deceased; or
- (b) is the subject of such a bequest, but the bequest is not accepted by the legatee; or
- (c) is the subject of such a bequest, but the bequest is declared null and void by virtue of section 21 of the 2003 Act,

and there is among the conditions of the lease (whether expressly or by implication) a condition prohibiting assignation of the interest, the executor shall be entitled, notwithstanding that condition, to transfer the interest to a person to whom subsection (4B) below applies; and the executor shall be entitled so to transfer the interest without the consent of the landlord.

(4B) This subsection applies to—

- (a) any one of the persons entitled to succeed to the deceased’s intestate estate, or to claim legal rights or the prior rights of a surviving spouse out of the estate, in or towards satisfaction of that person’s entitlement or claim; or

Status: This is the original version (as it was originally enacted).

- (b) any other person.
- (4C) In the case of any interest under a lease constituting a short limited duration tenancy or a limited duration tenancy—
- (a) if at any time the executor is satisfied that the interest cannot be disposed of according to law and so informs the landlord, the executor may terminate the tenancy (in so far as it relates to the interest); and
 - (b) if the interest is not so disposed of within the period referred to in subsection (4D) below, the lease shall (in so far as it relates to the interest) terminate at the expiry of the period,
- notwithstanding any provision in the lease, or any enactment or rule of law, to the contrary effect.
- (4D) The period is one year or such longer period as may be fixed by agreement or, failing agreement, by the Land Court on the application of the executor—
- (a) in the case of an interest which is the subject of an application to that court by virtue of section 21 of the 2003 Act, from the date of the determination or withdrawal of the application; and
 - (b) in any other case, from the date of death of the deceased.
- (4E) The—
- (a) interest may be transferred under subsections (4A) and (4B) above; or
 - (b) tenancy may be terminated under subsection (4C)(a) above,
- only if the transfer, or as the case may be, termination is in the best interests of the deceased's estate.”.