Land Reform (Scotland) Act 2016

2016 asp 18

PART 10

AGRICULTURAL HOLDINGS

CHAPTER 6

ASSIGNATION OF AND SUCCESSION TO AGRICULTURAL TENANCIES

Assignation

PROSPECTIVE

106   Assignation of repairing tenancies

(1) The 2003 Act is amended as follows.

(2) After section 7C (as inserted by section 93) insert—

"7D Assignation of repairing tenancies

(1) During the repairing period, a lease constituting a repairing tenancy may be assigned by the tenant if, following notice under subsection (2), the landlord consents to a proposed assignation.

(2) The tenant must give the landlord a notice in writing of any intention of the tenant to assign the lease during the repairing period; and the notice must include the particulars of the proposed assignee, the terms upon which the assignation is to be made and the date on which it is to take effect.

(3) The landlord may withhold consent to the proposed assignation during the repairing period 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—

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      (i) the rent due under the lease, or

      (ii) for investment in the land in order to bring it into a state capable of being farmed, after the expiry of the repairing period, in accordance with the rules of good husbandry, or

  (b) has the skills or experience that would be required properly to manage and improve the land in order to bring it into a state capable of being farmed, after the expiry of the repairing period, in accordance with the rules of good husbandry.

(4) The ground of objection in subsection (3)(b) 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 land is farmed with reasonable efficiency until the person completes that course.

(5) Any such withholding of consent during the repairing period (and the grounds for withholding it) is to be intimated in writing to the tenant within 30 days of the giving of notice under subsection (2); and, if no such intimation is made, the landlord is deemed to have consented to the proposed assignation.

(6) For the purposes of subsection (3), what is good husbandry is to be construed by reference to schedule 6 of the Agriculture (Scotland) Act 1948.

(7) After the expiry of the repairing period, section 7B applies to the assignation of a lease constituting a repairing tenancy as to the assignation of a lease constituting a modern limited duration tenancy.".

Status:
This version of this provision is prospective.

Changes to legislation:
Land Reform (Scotland) Act 2016, Section 106 is up to date with all changes known to be in force on or before 25 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. View outstanding changes

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