



# Land Reform (Scotland) Act 2016

## 2016 asp 18

### PART 10

#### AGRICULTURAL HOLDINGS

#### CHAPTER 1

#### MODERN LIMITED DURATION TENANCIES

##### *Modern limited duration tenancies*

#### **89 Modern limited duration tenancies: irritancy**

- (1) The 2003 Act is amended as follows.
- (2) After section 18 insert—

##### **“18A Irritancy of lease and good husbandry: modern limited duration tenancies**

- (1) Without prejudice to any rule of law, it is for the landlord and tenant to provide in the lease constituting a modern limited duration tenancy what grounds there are for irritancy of the lease.
- (2) Any term of such a lease or of an agreement in connection with the lease that provides for the lease to be irritated solely on the grounds that the tenant is not or has not been resident on the land is of no effect.
- (3) Where such a lease may be irritated on the grounds that the tenant is not using the land in accordance with the rules of good husbandry, what is good husbandry is to be construed, subject to subsections (4) and (5), by reference to schedule 6 of the Agriculture (Scotland) Act 1948.
- (4) Conservation activities are to be treated as being in accordance with the rules of good husbandry if they are carried out in accordance with—
  - (a) an agreement entered into under any enactment by the tenant, or

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**Changes to legislation:** *Land Reform (Scotland) Act 2016, Section 89 is up to date with all changes known to be in force on or before 26 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. (See end of Document for details) View outstanding changes*

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- (b) the conditions of—
  - (i) any grant for the purpose of such activities paid out of the Scottish Consolidated Fund, or
  - (ii) such other grant of a public nature as the Scottish Ministers may by regulations specify.
- (5) Such use of any of the land, or such change to the land, for a non-agricultural purpose as has been permitted under section 40 or 41 is to be treated as being in accordance with the rules of good husbandry.
- (6) Where the landlord intends to irritate the lease, the landlord must give the tenant notice in writing specifying—
  - (a) the breach of the tenant's obligations under the lease which form the grounds on which the landlord intends to irritate the lease, and
  - (b) the period before the expiry of which the tenant must remedy that breach, which period must be not less than 12 months beginning with the date of the notice.
- (7) The period mentioned in subsection (6)(b) may be extended—
  - (a) by the landlord and the tenant by agreement, or
  - (b) by the Land Court on the application of the tenant.
- (8) The landlord may not enforce any right to remove the tenant on grounds of irritancy unless—
  - (a) the period specified in the notice under subsection (6)(b), or such extended period as mentioned in subsection (7), has expired without the tenant having remedied the breach specified in the notice, and
  - (b) the landlord has given notice in writing of the intention so to enforce the right to remove the tenant not less than 2 months before the date on which the tenant is to be removed.”.

**Commencement Information**

- I1** S. 89 in force at 23.12.2016 for specified purposes by [S.S.I. 2016/365, reg. 2, sch.](#) (with [regs. 3-15](#))
- I2** S. 89 in force at 30.11.2017 in so far as not already in force by [S.S.I. 2017/299, reg. 2, sch.](#)

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**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](#)