

2004 No. 557

LANDLORD AND TENANT

**The Agricultural Holdings (Right to Buy Modifications)
(Scotland) Regulations 2004**

Made - - - - - *22nd December 2004*

Coming into force in accordance with regulation 1

The Scottish Ministers, in exercise of the powers conferred by section 74 and 91(2) of the Agricultural Holdings (Scotland) Act 2003^(a) and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 91(4)(b) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. These Regulations may be cited as Agricultural Holdings (Right to Buy Modifications) (Scotland) Regulations 2004 and shall come into force on the day after they are made.

Interpretation

2.—(1) In these Regulations—

“the 2003 Act” means the Agricultural Holdings (Scotland) Act 2003; and

“Part 2” means Part 2 of the 2003 Act (tenant’s right to buy land).

(2) In these Regulations, the expressions “limited partnership”, “limited partner” and “general partner” are to be construed in accordance with the Limited Partnerships Act 1907^(b).

Modification of tenant’s right to buy land - general

3.—(1) For the purposes of Part 2 as it applies to—

(a) a general partner of a limited partnership tenant of a 1991 Act tenancy^(c) who may exercise or enforce any right of a tenant under that Part by virtue of section 72(2) of the 2003 Act (rights of certain persons where tenant is a limited partnership); or

(b) a former general partner of such a tenant and tenancy who becomes the tenant in their own right under section 72(6) of the 2003 Act,

the modifications in paragraphs (2) to (4) below shall apply.

(2) Unless the context otherwise requires, and subject to paragraphs (3) and (4) and regulation 4 below, references in Part 2 to the “tenant” and the “tenant’s interest” shall include references to any general partner (or former general partner) and any general partner’s (or former general partner’s) interest for the purposes of giving effect to Part 6 of the Act or these Regulations.

^(a) 2003 asp 11.

^(b) 1907 c.24.

^(c) A “1991 Act tenancy” is defined in sections 1(4) and 93 of the 2003 Act; the 1991 Act referred to is the Agricultural Holdings (Scotland) Act 1991 (c.55).

(3) Section 25(3) of the 2003 Act (contents of notice registering a tenant's interest) is modified to apply as if after paragraph (a) there were inserted—

“(aa) the particulars of any general partner of a limited partnership tenant;”.

(4) The following provisions shall apply as if the notice which must be given to the tenant in each case must be given to any general partner (or former general partner) of a limited partnership tenant in addition to the tenant:—

- (i) section 25(5) (Keeper sending extract of registration);
- (ii) section 25(6) (intimation of standard security);
- (iii) section 25(10) (intimation of rescinding or sending of amendment of registration);
and
- (iv) section 26(1)(a) (notice of proposal to transfer land).

Two or more general partners

4. Subject to regulation 5(1) below, where two or more general partners of a limited partnership tenant of a 1991 Act tenancy may by virtue of section 72(2) of the 2003 Act or these Regulations exercise or enforce a right to register an interest in acquiring land under section 25 of the 2003 Act, Part 2 is modified to apply as if there were inserted after section 25(3)(b) of that Act—

“(bb) where there are two or more general partners of a tenant under the lease, the fact that each of them consents to the making of the application to register their interest in acquiring the land.”.

Associates of the landlord as general partners or joint tenants

5.—(1) Where there are two or more general partners of a limited partnership tenant of a 1991 Act tenancy who may exercise or enforce any right of a tenant under Part 2 by virtue of section 72(2) of the 2003 Act, the consent or agreement of a general partner who is an associate of the landlord shall not be required to exercise or enforce such a right.

(2) Where a general partner has become a joint tenant under section 72(6) of the 2003 Act together with another general partner as joint tenant, the consent or agreement of another joint tenant who is an associate of the landlord shall not be required to exercise or enforce any right of the tenant under Part 2.

(3) In this regulation, “associate of the landlord” bears the meaning it is given by section 70(8) of the 2003 Act.

LEWIS MACDONALD

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
22nd December 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify Part 2 of the Agricultural Holdings (Scotland) Act 2003 (asp 11) (“the 2003 Act”). Part 2 confers rights to buy land on tenants of an agricultural holding under the Agricultural Holdings (Scotland) Act 1991 (c.55) to which the provisions of the 2003 Act apply.

The Regulations modify Part 2 of the 2003 Act to provide for its application to general partners or former general partners, of tenants which are limited partnerships, who may exercise tenants’ rights under that Part by virtue of the provisions in Part 6 of the 2003 Act concerning the rights of certain persons where the tenant is a partnership.

In particular, they provide generally for references to the tenant to be taken to include any general partner or former general partner with rights under Part 6, and specifically for notices to be given to general partners in addition to tenants (regulation 3). They make further modifications for cases where there is more than one general partner, to require the consent of all to the registration of an interest in acquiring land under Part 2 (regulation 4). They also prevent general partners or joint tenants who are associates of landlords acting to avoid the operation of the right to buy (regulation 5).

A Regulatory Impact Assessment has not been prepared in respect of these Regulations.

2004 No. 557

LANDLORD AND TENANT

**The Agricultural Holdings (Right to Buy Modifications)
(Scotland) Regulations 2004**

£3.00

© Crown Copyright 2004

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
150 12/04 195932

