
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 370

The Land Reform (Scotland) Act 2016 (Commencement No. 6, Transitory and Saving Provisions) (Modern Limited Duration Tenancies) Miscellaneous Amendments Regulations 2017

Amendment of the Land Reform (Scotland) Act 2016 (Commencement No. 6, Transitory and Saving Provisions) Regulations 2017

4. For regulations 5 to 14 substitute—

“Transitory provision: modern limited duration tenancies

5. Until the coming into force of section 92 of the 2016 Act (repairing tenancies: creation)(1) for all purposes, section 5A(1)(c) of the 2003 Act (modern limited duration tenancies)(2) is to be read as if “or a repairing tenancy” were omitted.

Transitory provision: Sheriff Courts (Scotland) Act 1907

6. Until the coming into force of section 92 of the 2016 Act for all purposes, section 37A of the Sheriff Courts (Scotland) Act 1907 (removings: exception for certain tenancies)(3) is to be read as if for “, modern limited duration tenancies or repairing tenancies” there were substituted “or modern limited duration tenancies”.

Transitory provision: Succession (Scotland) Act 1964

7. Until the coming into force of section 92 of the 2016 Act for all purposes, section 16 of the Succession (Scotland) Act 1964 (provisions relating to leases)(4) is to be read as if—

- (a) in subsection (4A), for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;
- (b) in subsection (4C), for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”; and
- (c) in subsection (9)—

(1) References to “the 2016 Act” in the text substituted by regulations 4, 6 and 7 of these Regulations are to the Land Reform (Scotland) Act 2016 (“the 2016 Act”), which is defined for the purposes of [S.S.I. 2017/299](#) by regulation 1(2) of that instrument and for the purposes of [S.S.I. 2017/300](#) by regulation 1(2) of that instrument. Section 92 of the 2016 Act provides for the establishment of a new type of tenancy to be known as a “repairing tenancy”. Section 92 has not yet been commenced.

(2) References to “the 2003 Act” in the text substituted by regulation 4 of these Regulations are to the Agricultural Holdings (Scotland) Act 2003 ([asp 11](#)) (“the 2003 Act”), which is defined for the purposes of [S.S.I. 2017/299](#) by regulation 1(2) of that instrument. Section 5A was inserted by section 85(3) of the 2016 Act. Section 85(3) of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(3) [1907 c.51](#). Section 37A was inserted by paragraph 1 of the schedule of the 2003 Act. Section 37A is amended by paragraph 1(2) of schedule 2 of the 2016 Act. Paragraph 1 of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(4) [1964 c.41](#). Section 16(4A) and (4C) was inserted by section 20 of the 2003 Act. Section 16(9) was relevantly amended by paragraph 2(1)(f) of the schedule of the 2003 Act. Section 16(4A), (4C) and (9) is further amended by section 108(1) of the 2016 Act. Section 108(1) of the 2016 Act is commenced by [S.S.I. 2017/299](#).

- (i) in the definition of “agricultural lease”, for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”; and
- (ii) for “, “modern limited duration tenancy” and “repairing tenancy”” there were substituted “and “modern limited duration tenancy””.

Transitory provision: Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

8. Until the coming into force of section 92 of the 2016 Act for all purposes, section 7(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (interpretation of sections 4 to 6)(**5**) is to be read as if, in the definition of “agricultural lease”, for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”.

Transitory provision: Crofters (Scotland) Act 1993

9. Until the coming into force of section 92 of the 2016 Act for all purposes, the Crofters (Scotland) Act 1993(**6**) is to be read as if—

- (a) in section 3A(9)(a)(ii) (new crofts)(**7**), for “, modern limited duration tenancy or repairing tenancy” there were substituted “or modern limited duration tenancy”;
- (b) in section 29(1)(b) (miscellaneous provisions regarding subleases of crofts)(**8**), for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”; and
- (c) for section 29B(b) (status of tenant under a short lease)(**9**) there were substituted—
 - “(b) the tenant under a lease constituting—
 - (i) a 1991 Act tenancy within the meaning of the Agricultural Holdings (Scotland) Act 2003 ([asp 11](#));
 - (ii) a short limited duration tenancy within the meaning of that Act;
 - (iii) a limited duration tenancy within the meaning of that Act; or
 - (iv) a modern limited duration tenancy within the meaning of that Act.”.

Transitory provision: Children (Scotland) Act 1995

10. Until the coming into force of section 92 of the 2016 Act for all purposes, section 76(11)(a) of the Children (Scotland) Act 1995 (exclusion orders)(**10**) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”.

(5) [1985 c.73](#). The definition of “agricultural lease” in section 7(2) was previously substituted by paragraph 7(b) of the schedule of the 2003 Act. Section 7 is further amended by paragraph 2(2) of schedule 2 of the 2016 Act. Paragraph 2 of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(6) [1993 c.44](#).

(7) Section 3A was inserted by section 6 of the Crofting Reform etc. Act 2007 ([asp 7](#)). Section 3A(9)(a)(ii) is amended by paragraph 4(2) of schedule 2 of the Land Reform (Scotland) Act 2016 (“the 2016 Act”). Paragraph 4 of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(8) Section 29(1) was amended by paragraph 49(a) of the schedule of the Agricultural Holdings (Scotland) Act 2003 (“the 2003 Act”). Section 29(1)(b) is further amended by paragraph 4(3) of schedule 2 of the 2016 Act.

(9) Section 29B was inserted by section 39 of the Crofting Reform (Scotland) Act 2010 ([asp 14](#)). Section 29B is amended by paragraph 4(4) of schedule 2 of the 2016 Act.

(10) [1995 c.36](#). Section 76(11)(a) was amended by paragraph 12 of the schedule of the 2003 Act. Section 76(11)(a) is further amended by paragraph 5(2) of schedule 2 of the 2016 Act. Paragraph 5 of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

Transitory provision: Town and Country Planning (Scotland) Act 1997

11. Until the coming into force of section 92 of the 2016 Act for all purposes, section 35(7) of the Town and Country Planning (Scotland) Act 1997 (notice etc. of applications to owners and agricultural tenants)(**11**) is to be read as if, in the definition of “agricultural land”, for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”.

Transitory provision: Agricultural Holdings (Scotland) Act 2003

12.—(1) Until the coming into force of section 92 of the 2016 Act for all purposes, in the 2003 Act—

- (a) section 10(1) (increase in rent: landlord’s improvements)(**12**) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;
- (b) section 11 (variation of rent by Land Court)(**13**) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;
- (c) section 12(1)(b) (right of tenant to withhold rent)(**14**) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;
- (d) section 13(1) (written leases and revision of certain leases)(**15**) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;
- (e) section 14 (freedom of cropping and disposal of produce)(**16**) is to be read as if for “, modern limited duration tenancies and repairing tenancies” there were substituted “and modern limited duration tenancies”;
- (f) section 15 (permanent pasture)(**17**) is to be read as if for “, modern limited duration tenancies and repairing tenancies” there were substituted “and modern limited duration tenancies”;
- (g) section 19 (resumption and irritancy: supplementary)(**18**) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;
- (h) section 21(1) (bequest of lease)(**19**) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;

(11) 1997 c.8. Section 35(7) was amended by paragraph 51(b) of the schedule of the 2003 Act. Section 35(7) is further amended by paragraph 6(2) of schedule 2 of the 2016 Act. Paragraph 6 of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(12) Section 10(1) is amended by paragraph 7(3) of schedule 2 of the 2016 Act. Paragraph 7(3) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#). Other amendments were made to section 10(1) by section 120 of the 2016 Act.

(13) Section 11 is amended by paragraph 7(4) of schedule 2 of the Land Reform (Scotland) Act 2016 (“the 2016 Act”). Paragraph 7(4) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(14) Section 12(1)(b) is amended by paragraph 7(5) of schedule 2 of the 2016 Act. Paragraph 7(5) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(15) Section 13(1) is amended by paragraph 7(6)(a) of schedule 2 of the 2016 Act. Paragraph 7(6) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(16) Section 14 is amended by paragraph 7(7) of schedule 2 of the 2016 Act. Paragraph 7(7) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(17) Section 15 is amended by paragraph 7(8) of schedule 2 of the 2016 Act. Paragraph 7(8) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(18) Section 19 is amended by paragraph 7(10) of schedule 2 of the 2016 Act. Paragraph 7(10) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(19) Section 21(1) was amended by section 108(3)(a)(ii) of the 2016 Act. Section 21(1) is further amended by section 108(3)(a)(i) of the 2016 Act. Section 108(3)(a)(i) of the 2016 Act is commenced by [S.S.I. 2017/299](#).

- (i) in section 22 (right of landlord to object to acquirer of tenancy)(**20**)—
 - (i) subsection (1) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”; and
 - (ii) subsection (3) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;
- (j) section 23 (effect of termination of tenancy where tenant deceased)(**21**) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;
- (k) section 39 (use of land for non-agricultural purposes)(**22**) is to be read as if for subsection (1) there were substituted—
 - “(1) A—
 - (a) 1991 Act tenancy,
 - (b) tenancy under a lease constituting a limited duration tenancy, or
 - (c) tenancy under a lease constituting a modern limited duration tenancy,
 does not cease to be such a tenancy by reason only that the land is used for a non-agricultural purpose.”;
 - (l) section 42 (tenant’s right to timber)(**23**) is to be read as if for subsection (1) there were substituted—
 - “(1) The tenant under—
 - (a) a 1991 Act tenancy,
 - (b) a limited duration tenancy, or
 - (c) a modern limited duration tenancy,
 has, for so long as the tenancy continues to have effect, the right to cut timber from any trees planted on the land by the tenant on or after the coming into force of this section; and any such timber belongs to the tenant.”;
 - (m) section 70(1)(b) (rights of certain persons where tenant is a partnership)(**24**) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”;
 - (n) in section 77 (resolution of disputes by Land Court)(**25**)—
 - (i) subsection (2) is to be read as if for paragraph (a) there were substituted—
 - “(a) whether—
 - (i) a short limited duration tenancy,
 - (ii) a limited duration tenancy,

(20) Section 22(1) and (3) is amended by paragraph 7(11) of schedule 2 of the 2016 Act. Paragraph 7(11) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(21) Section 23 is amended by paragraph 7(12) of schedule 2 of the 2016 Act. Paragraph 7(12) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(22) Section 39(1) is amended by paragraph 7(13) of schedule 2 of the 2016 Act. Paragraph 7(13) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(23) Section 42(1) is amended by paragraph 7(14) of schedule 2 of the Land Reform (Scotland) Act 2016 (“the 2016 Act”). Paragraph 7(14) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(24) Section 70(1)(b) is amended by paragraph 7(26) of schedule 2 of the 2016 Act. Paragraph 7(26) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(25) Section 77(2)(a) and (4) is amended by paragraph 7(27) of schedule 2 of the 2016 Act. Paragraph 7(27) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

- (iia) a modern limited duration tenancy, or
 - (iii) a tenancy to which section 3 applies, exists or has been terminated;” and
- (ii) subsection (4) is to be read as if for “, a modern limited duration tenancy or a repairing tenancy” there were substituted “or a modern limited duration tenancy”; and
- (o) section 81(a) (clauses in leases as to resolution of disputes)(**26**) is to be read as if “, a repairing tenancy” were omitted.
- (2) Until the coming into force of section 95(2) of the 2016 Act (repairing tenancies: fixed equipment)(**27**) for all purposes, in the 2003 Act—
 - (a) section 11 (variation of rent by Land Court)(**28**) is to be read as if for “, 16A or 16B” there were substituted “or 16A”; and
 - (b) in section 13 (written leases and the revision of certain leases)—
 - (i) subsection (1)(b)(ii)(**29**) is to be read as if for “, section 16A or, as the case may be, section 16B” there were substituted “or, as the case may be, section 16A”;
 - (ii) subsection (2)(b)(**30**) is to be read as if for “, 16A or, as the case may be, 16B” there were substituted “or, as the case may be, 16A”;
 - (iii) subsection (4)(a)(**31**) is to be read as if for “, section 16A or, as the case may be, section 16B” there were substituted “ or, as the case may be, section 16A”; and
 - (iv) subsection (5)(**32**) is to be read as if for “, 16A or, as the case may be, 16B” there were substituted “or, as the case may be, 16A”.
- (3) Until the coming into force of section 96(2) of the 2016 Act (repairing tenancies: resumption of land by landlord)(**33**) for all purposes, section 19(a) of the 2003 Act (resumption and irritancy: supplementary)(**34**) is to be read as if “or 17A” were omitted.
- (4) Until the coming into force of section 106(2) of the 2016 Act (assignment of repairing tenancies)(**35**), section 77(4) of the 2003 Act (resolution of disputes by Land Court)(**36**) is to be read as if “, 7D(1) or 7D(7)” were omitted.

Transitory provision: Antisocial Behaviour etc. (Scotland) Act 2004

- 13.** Until the coming into force of section 92 of the 2016 Act (repairing tenancies: creation) for all purposes, section 83(6)(f)(i) of the Antisocial Behaviour etc. (Scotland)

(**26**) Section 81(a) is amended by paragraph 7(28) of schedule 2 of the 2016 Act. Paragraph 7(28) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(**27**) Section 95(2) inserts new section 16B into the Agricultural Holdings (Scotland) Act 2003 (“the 2003 Act”).

(**28**) Section 11 is amended by paragraph 7(4) of schedule 2 of the 2016 Act. Paragraph 7(4) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#). Section 88(2) of the 2016 Act inserts new section 16A into the 2003 Act. Section 88 is commenced by [S.S.I. 2017/299](#).

(**29**) Section 13(1)(b)(ii) is amended by paragraph 7(6)(a)(ii) of schedule 2 of the 2016 Act. Paragraph 7(6) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(**30**) Section 13(2)(b) is amended by paragraph 7(6)(b) of schedule 2 of the Land Reform (Scotland) Act 2016 (“the 2016 Act”).

(**31**) Section 13(4)(a) is amended by paragraph 7(6)(c) of schedule 2 of the 2016 Act.

(**32**) Section 13(5) is amended by paragraph 7(6)(d) of schedule 2 of the 2016 Act.

(**33**) Section 96(2) inserts new section 17A into the Agricultural Holdings (Scotland) Act 2003 (“the 2003 Act”).

(**34**) Section 19(a) is amended by paragraph 7(10)(b) of schedule 2 of the 2016 Act. Paragraph 7(10) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

(**35**) Section 106(2) inserts new section 7D into the 2003 Act.

(**36**) Section 77(4) is amended by paragraph 7(27)(b) of schedule 2 of the 2016 Act. Paragraph 7(27) of schedule 2 of the 2016 Act is commenced by [S.S.I. 2017/299](#).

Act 2004 (registration of certain landlords: application for registration)(**37**) is to be read as if for “, modern limited duration tenancy or repairing tenancy” there were substituted “or modern limited duration tenancy”.

Transitory provision: Housing (Scotland) Act 2006

14. Until the coming into force of section 92 of the 2016 Act for all purposes, section 12(1)(c) of the Housing (Scotland) Act 2006 (tenancies to which repairing standard duty applies)(**38**) is to be read as if for sub-paragraph (i) there were substituted—

“(i) on land comprised in a lease constituting—

- (A) a 1991 Act tenancy (within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11)),
- (B) a short limited duration tenancy (within the meaning of that Act),
- (C) a limited duration tenancy (within the meaning of that Act), or
- (D) a modern limited duration tenancy (within the meaning of that Act), and”.”.”

(37) 2004 asp 8. Section 83(6)(f) was inserted by article 2(b) of S.S.I. 2005/650. Section 83(6)(f)(i) is amended by paragraph 8(2) of schedule 2 of the 2016 Act. Paragraph 8 of schedule 2 of the 2016 Act is commenced by S.S.I. 2017/299.

(38) 2006 asp 1. Section 12(1)(c)(i) is amended by paragraph 9(2) of schedule 2 of the 2016 Act. Paragraph 9 of the 2016 Act is commenced by S.S.I. 2017/299.