

SCHEDULE

(introduced by section 94)

AMENDMENTS TO ENACTMENTS

Sheriff Courts (Scotland) Act 1907 (c. 51)

- 1 After section 37 (notice of termination of tenancy) of the Sheriff Courts (Scotland) Act 1907 there is inserted—

“37A Exception for certain tenancies

The provisions of this Act relating to removings (including summary removings) shall not apply to or in relation to short limited duration tenancies or limited duration tenancies within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11).”.

Succession (Scotland) Act 1964 (c. 41)

- 2 (1) In section 16 (provisions relating to leases) of the Succession (Scotland) Act 1964—
- (a) in subsection (2), at the beginning there is inserted “Subject to subsection (4A),”;
 - (b) in subsection (3)—
 - (i) at the beginning there is inserted “Subject to subsection (4C),”;
 - (ii) in paragraph (b), for the words “sheriff on summary application by” there is substituted “relevant court on the application of”;
 - (c) in subsection (6)—
 - (i) for the words “to an arbiter to determine” there is substituted “for the determination of”;
 - (ii) for the words from “Land” in the second place where it appears to “award” there is substituted “order or determination shall not be”;
 - and
 - (iii) the words “the court or the arbiter is satisfied that” are repealed;
 - (d) in subsection (8), after the word “Act” in the second place where it appears there is inserted ““ or, as the case may be, section 21(2) and (3) of the 2003 Act,”;
 - (e) after that subsection there is inserted—
 - “(8A) For the purposes of subsection (3)(b) above, the “relevant court” is—
 - (a) in the case of an interest under a lease constituting a 1991 Act tenancy, the Land Court; and
 - (b) in any other case, the sheriff,and an application to the sheriff in any such other case shall be by summary application.”;
 - (f) in subsection (9)—
 - (i) in the definition of “agricultural lease”, for the words from “or” in the first place where it appears to the end there is substituted “, or a lease of a croft within the meaning of section 3(1) of the Act of 1955, or a lease constituting a 1991 Act tenancy, or a lease constituting a short limited duration tenancy or a limited duration tenancy”;

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(ii) after the definition of “the 1991 Act” there is inserted—

““the 2003 Act” means the Agricultural Holdings (Scotland) Act 2003 (asp 11);”; and

(iii) at the end there is inserted—

““1991 Act tenancy”, “short limited duration tenancy” and “limited duration tenancy” shall be construed in accordance with the 2003 Act.”

(2) In section 29 (right of tenant to bequeath interest under lease) of that Act, in subsection (2), after the words “1991” there is inserted “or section 21 of the Agricultural Holdings (Scotland) Act 2003 (asp 11)”.

Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35)

3 In paragraph 5 of Schedule 1 to the Conveyancing and Feudal Reform (Scotland) Act 1970 (land obligations not subject to variation or discharge under section 1 of that Act)—

- (a) the word “of” in the first place where it appears is repealed;
- (b) for paragraph (a) there is substituted—

“(a) constituting a 1991 Act tenancy, within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11);

(aa) constituting a short limited duration tenancy or a limited duration tenancy, within the meaning of that Act;”; and

- (c) at the beginning of each of paragraphs (b) and (c) there is inserted the word “of”.

Land Tenure Reform (Scotland) Act 1974 (c. 38)

4 In section 8 (which makes provision concerning property let under certain leases) of the Land Tenure Reform (Scotland) Act 1974, in subsection (5), for paragraph (a) there is substituted—

“(a) the land comprised in a lease constituting a 1991 Act tenancy, within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11);

(aa) the land comprised in a lease constituting a short limited duration tenancy or a limited duration tenancy, within the meaning of that Act;”.

Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c. 59)

5 In section 13 (transfer of tenancy) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981—

- (a) in subsection (7), for paragraph (b) there is substituted—

“(b) is on or pertains to land comprised in an agricultural lease;”; and

- (b) in subsection (8), for the definition of “agricultural holding” there is substituted—

““agricultural lease” means a lease constituting a 1991 Act tenancy within the meaning of the Agricultural Holdings (Scotland) Act

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2003 (asp 11) or a lease constituting a limited duration tenancy or a short limited duration tenancy (within the meaning of that Act);”.

Rent (Scotland) Act 1984 (c. 58)

- 6 In section 25(1) (interpretation) of the Rent (Scotland) Act 1984, in the definition of “statutorily protected tenant”, at the end there is added “, or a limited duration tenancy (within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11)).”.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73)

- 7 In section 7 (interpretation of sections 4 to 6) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985—
- (a) in subsection (1)—
- (i) in paragraph (b), the words “an agricultural holding,” and the word “or” immediately preceding that paragraph, are repealed; and
- (ii) after that paragraph there is inserted “; or
- (c) where the lease is an agricultural lease.”; and
- (b) in subsection (2), for the definition of “agricultural holding” there is substituted—

““agricultural lease” means a lease constituting a 1991 Act tenancy within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11) or a lease constituting a short limited duration tenancy or a limited duration tenancy (within the meaning of that Act);”.

Agriculture Act 1986 (c. 49)

- 8 The Agriculture Act 1986 is amended as follows.
- 9 In section 16 (rent arbitrations: milk quotas), after subsection (2) there is inserted—
- “(2A) In this section, in relation to a reference under section 13 of the 1991 Act, “arbiter” includes any other person determining the matter in respect of which the reference is made.”.
- 10 (1) In paragraph 7(2) of Schedule 2 (tenants' compensation for milk quota in Scotland), for the word “arbitration” there is substituted “the Scottish Land Court”.
- (2) In paragraph 10 of that Schedule, in sub-paragraph (1)—
- (a) the words—
- (i) from “the” in the third place where it appears to “that” in the second place where it appears; and
- (ii) “shall be referred”,
- are repealed;
- (b) for the words from “to” in the first place where it appears in head (a) to the end of that head there is substituted “may be referred to the Scottish Land Court under section 60 of that Act”;
- (c) after the word “case,” where it appears in head (b) there is inserted “shall be referred, following a demand for referral made, by notice in writing at any time before the termination of the lease, by the landlord or tenant to the other,”; and

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- (d) for the words from “section” in the second place where it appears to the end there is substituted “the provisions of the 1991 Act and the Agricultural Holdings (Scotland) Act 2003 (asp 11), so far as applying to matters which fall to be determined under section 60 of the 1991 Act, shall apply to the matter referred to in this sub-paragraph.”.
- (3) In paragraph 11 of that Schedule—
- (a) in head (a) of sub-paragraph (1), for the words from “arbitration” to the end there is substituted “the Scottish Land Court under section 60 of that Act”;
 - (b) for sub-paragraph (4) there is substituted—
 - “(4) Where head (a) of sub-paragraph (1) above applies, the provisions of the 1991 Act and the Agricultural Holdings (Scotland) Act 2003 (asp 11), so far as applying to matters which may be determined under section 60 of the 1991 Act, shall apply to a claim referred to in that sub-paragraph.”;
 - (c) in sub-paragraph (5), for the words “an arbitration” there is substituted “a determination”;
 - (d) in sub-paragraph (6), in head (b), the words “by arbitration” are repealed; and
 - (e) after sub-paragraph (7) there is inserted—
 - “(8) In paragraph 10 above and in this paragraph, “arbiter” includes any other person to whom the matter is referred or, as the case may be, by whom the claim is determined.”.

The 1991 Act

- 11 The 1991 Act is amended as follows.
- 12 In section 4 (written leases and the revision of certain leases)—
- (a) in subsection (1), for the word “arbitration” there is substituted “the Land Court”;
 - (b) in subsection (2)—
 - (i) for the words “arbiter shall by his award” there is substituted “Land Court shall in its determination”; and
 - (ii) for the word “arbiter” in the second place where it appears there is substituted “Land Court”;
 - (c) in subsection (3), for the words “arbiter may include in his award” there is substituted “Land Court may include in its determination”; and
 - (d) in subsection (4)—
 - (i) for the words “award of an arbiter” there is substituted “determination of the Land Court”; and
 - (ii) for the word “award” in the second and third places where it appears there is in each case substituted “determination”.
- 13 In section 5 (fixed equipment and insurance premiums), subsection (5) is repealed.
- 14 In section 9 (arbitration as to permanent pasture)—
- (a) in subsection (1), for the words from “landlord” to “of” in the fifth place where it appears, there is substituted “Land Court may determine”;
 - (b) in subsection (2), for the words from the beginning to “award” there is substituted “The Land Court may in its determination”; and

- (c) in subsection (3)—
 - (i) for the word “arbiter” there is substituted “Land Court”; and
 - (ii) for the words “he may also by his award” there is substituted “it may also”.
- 15 In section 13 (variation of rent)—
 - (a) in subsection (1)—
 - (i) for the words from “by” in the first place where it appears to “of” in the third place where it appears there is substituted “have determined by the Land Court”; and
 - (ii) the words from “, and” to the end are repealed;
 - (b) in subsection (2), for the words from the beginning to “arbiter” there is substituted “In relation to such a question, the Land Court”;
 - (c) in subsection (5), for the word “arbiter” there is substituted “Land Court”;
 - (d) in subsection (7), for the word “arbiter” there is substituted “Land Court”; and
 - (e) in subsection (8), for the word “arbitration” there is substituted “the Land Court”.
- 16 For section 14 (arbitrations under sections 4 and 5) substitute—

“14 Determination by the Land Court under sections 4 and 5

Where it appears to the Land Court—

 - (a) that, by reason of any provision which it is required by section 4 of this Act to include in its determination; or
 - (b) that, by reason of any provision included in its determination on any question as to the liability of a landlord or tenant under section 5 of this Act,

it is equitable that the rent of the holding should be varied, it may vary the rent accordingly.”.
- 17 In section 15 (increase of rent for certain improvements by landlord), subsection (3) is repealed.
- 18 In section 19 (payments for implements, etc., sold on quitting), subsection (3) is repealed.
- 19 In section 20 (removal of tenant for non-payment of rent)—
 - (a) in subsection (1), for “sheriff court” there is substituted “Land Court”;
 - (b) in subsection (2)—
 - (i) for “sheriff” there is substituted “Land Court”; and
 - (ii) for “his” there is substituted “its”; and
 - (c) subsection (4) is repealed.
- 20 In section 21 (notice to quit and notice of intention to quit), in subsection (1), after the word “below” there is inserted “and to sections 2 and 73 of the Agricultural Holdings (Scotland) Act 2003 (asp 11)”.
- 21 In section 23 (consent by Land Court or arbitration on notices to quit)—
 - (a) in subsection (2), for the word “arbitration” there is substituted “the Land Court”;
 - (b) in subsection (3)—

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- (i) for the words “the award of the arbiter in an arbitration” there is substituted “the determination of the Land Court”; and
 - (ii) for the words “arbiter’s award” there is substituted “Land Court’s determination”;
 - (c) in subsection (4)—
 - (i) for the words “an arbitration” there is substituted “a determination”; and
 - (ii) for the words from “arbiter’s” to the end there is substituted “Land Court’s determination”; and
 - (d) in subsection (5), for the words from “award” to “arbitration” there is substituted “determination”.
- 22 In section 31 (reduction of rent where tenant dispossessed of part of holding)—
- (a) in subsection (1), for the word “arbitration” there is substituted “the Land Court”; and
 - (b) in subsection (2), for the word “arbiter” there is substituted “Land Court”.
- 23 In section 32 (further restrictions on operation of certain notices to quit)—
- (a) in subsection (3) for the word “arbitration” there is substituted “the Land Court”;
 - (b) in subsection (4)—
 - (i) in paragraph (b), for the word “arbitration” there is substituted “Land Court’s determination”; and
 - (ii) in paragraph (c), for the words “arbiter’s award” there is substituted “Land Court’s determination”; and
 - (c) in subsection (6), for the word “arbitration” there is substituted “Land Court’s determination”.
- 24 In section 34(6) (right to compensation for improvements), for the word “arbiter” there is substituted “Land Court”.
- 25 In section 36(4) (amount of compensation), for the word “arbiter” there is substituted “Land Court”.
- 26 In section 37(1) (consent necessary for some improvements), the words “as to compensation or otherwise” are repealed.
- 27 In section 41 (direction by Land Court that holding be treated as market garden), in subsection (2), for the word “arbitration” there is substituted “the Land Court”.
- 28 In section 43 (compensation for disturbance)—
- (a) in subsection (3), for the words “of an arbitration to determine” there is substituted “arising from the determination of”; and
 - (b) in subsection (5), for the words “arbiter finds to be” there is substituted “Land Court determines as”.
- 29 In section 46 (compensation for failure to repair or maintain fixed equipment)—
- (a) in subsection (2) for the word “arbitration” there is substituted “the Land Court”; and
 - (b) in subsection (3)—
 - (i) for the word “arbitration” there is substituted “the Land Court”; and
 - (ii) for the word “award” there is substituted “determination”.

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- 30 In section 49 (compensation provisions to apply to parts of holdings in certain cases), in subsection (2) for the words “arbiter, in assessing” there is substituted “Land Court, in determining”.
- 31 In section 50 (determination of claims for compensation where holding is divided)—
- (a) for the word “arbiter” in each place where it appears there is substituted “Land Court”;
 - (b) for the word “award” there is substituted “determination”; and
 - (c) for the word “he” there is substituted “it”.
- 32 In section 52 (compensation for damage by game), for the word “arbitration” in each place where it appears there is substituted “the Land Court”.
- 33 In section 55 (provisions supplementary to section 54), in subsection (7) for the words from “the” in the fourth place where it appears to the end there is substituted “it shall be determined by the Land Court”.
- 34 In section 62 (claims on termination of tenancy)—
- (a) for subsection (1) there is substituted—
 - “(1) This section applies to any claim referred to in section 60(2)(c) of this Act.”; and
 - (b) in subsection (5), for the words from “, an” to the end there is substituted—
 - “(a) an application has been made to the Land Court; or
 - (b) an arbiter has been appointed or any application has been made for the appointment of an arbiter,

to determine the claim”.
- 35 Sections 63 and 64 are repealed.
- 36 In section 66 (power to enable demand to remedy breach to be modified)—
- (a) in subsection (1)—
 - (i) for the word “arbitration” there is substituted “the Land Court”; and
 - (ii) for the word “arbiter” in each place where it appears there is substituted “Land Court”;
 - (b) in subsection (2)—
 - (i) for the words “an arbiter” there is substituted “the Land Court”; and
 - (ii) the words “the arbiter or” and “by the arbiter” are repealed;
 - (c) after subsection (2) there is inserted—
 - “(2A) Where, by virtue of section 61(1) of this Act, an arbiter specifies under subsection (1)(a) above a period within which a breach should be remedied or the period for remedying a breach is extended by virtue of subsection (4) below, the Land Court may, on the application of the arbiter or the landlord, specify a date for the termination of the tenancy by notice to quit in the event of the tenant’s failure to remedy the breach within that period, being a date not earlier than whichever of the two dates referred to in subsection (2) above is the later.”;
 - (d) in subsection (3)—
 - (i) after the word “(2)” there is inserted “or (2A)”; and
 - (ii) for the word “arbiter” there is substituted “Land Court”; and

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- (e) in subsection (4)—
 - (i) for the word “arbiter” in the first, third and fourth places where it appears there is in each case substituted “Land Court”;
 - (ii) for the words “arbiter on an arbitration required by notice” there is substituted “Land Court in a determination required”;
 - (iii) for the words “his award” there is substituted “its determination”;
 - (iv) for the word “award” in the second place where it appears there is substituted “determination”; and
 - (v) for the word “he” there is substituted “it”.
- 37 In section 68 (sheep stock valuation)—
- (a) in subsection (1)—
 - (i) for the words “69 to” in the first place where they appear there is substituted “71 and”;
 - (ii) for the word “arbitration” there is substituted “any method”; and
 - (iii) the words “and sections 69 to 72 of this Act” are repealed;
 - (b) after that subsection there is inserted—
 - “(1A) Where this section applies, the sheep stock valuation shall be determined by the Land Court in the manner provided for by virtue of this section.”;
 - (c) in subsection (2)—
 - (i) for the words “arbiter shall in his award” there is substituted “Land Court shall in its determination”; and
 - (ii) for the word “he” there is substituted “it”;
 - (d) in subsection (3), for the word “arbiter” there is substituted “Land Court”; and
 - (e) subsection (4) is repealed.
- 38 Sections 69 and 70 are repealed.
- 39 In section 71 (statement of sales of stock), after the word “or” in the first place where it appears there is inserted “, by virtue of section 61(1) of this Act.”.
- 40 In section 72 (interpretation of sections 68 to 71), paragraphs (b) and (c) are repealed.
- 41 In section 80 (determination of matters where the Scottish Ministers are landlord or tenant), paragraph (b) of subsection (2), and the word “or” immediately preceding that paragraph, are repealed.
- 42 In section 85 (interpretation), at the appropriate place there is inserted—
- ““enactment” includes an Act of the Scottish Parliament or an instrument made under an Act of the Scottish Parliament;”.
- 43 In section 86 (construction of certain references), for the words “within the meaning of this Act” there is substituted “to which this Act applies”.
- 44 Schedule 7 is repealed.
- 45 In Schedule 8 (supplementary provisions with respect to payments under section 56)
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- (a) in paragraph 2—
 - (i) for the word “arbitration” there is substituted “the Land Court”; and

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- (ii) for the words “the Land Court in pursuance of section 61(2)” there is substituted “arbitration by virtue of section 61(1)”; and
 - (b) in paragraph 3, after the word “question” there is inserted “by the Land Court or”.
- 46 In Schedule 9 (valuation of sheep stock in respect of old leases)—
 - (a) in paragraph 1, after the word “or” there is inserted “, by virtue of section 61(1) of this Act,”; and
 - (b) in paragraph 4—
 - (i) after the word “shall,” there is inserted “where the valuer is the Land Court (and not an arbiter by virtue of section 61(1) of this Act), on the application of the parties,”; and
 - (ii) the words from “by” in the second place where it appears to “prices” in the first place where it appears are repealed.
- 47 In Schedule 10 (valuation of sheep stock in respect of leases entered into after 1st December 1986)—
 - (a) in paragraph 1, after the word “or” there is inserted “, by virtue of section 61(1) of this Act,”; and
 - (b) in paragraph 4—
 - (i) after the word “shall,” there is inserted “where the valuer is the Land Court (and not an arbiter appointed by virtue of section 61(1) of this Act), on the application of the parties,”; and
 - (ii) the words from “by” in the second place where it appears to “prices” in the first place where it appears are repealed.

Tribunals and Inquiries Act 1992 (c. 53)

- 48 In Schedule 1 to the Tribunals and Inquiries Act 1992, in Part II (tribunals under supervision of the Scottish Committee of the Council on Tribunals), the entry relating to agriculture (that is to say, paragraph 46) is repealed.

Crofters (Scotland) Act 1993 (c. 44)

- 49 In the Crofters (Scotland) Act 1993—
 - (a) in section 29 (miscellaneous provisions regarding subleases of crofts), in subsection (1), for the words from “a crofter” to the end there is substituted—
 - “(a) a crofter; or
 - (b) the tenant under a lease constituting a 1991 Act tenancy within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11) or under a lease constituting a short limited duration tenancy or a limited duration tenancy (within the meaning of that Act).”;
 - (b) in section 30 (compensation to crofter for improvements), in subsection (5)—
 - (i) after the words “1991” there is inserted “or of the Agricultural Holdings (Scotland) Act 2003 (asp 11)”; and
 - (ii) for the words “that Act” in each place where they appear there is substituted “either of those Acts”; and
 - (c) in paragraph 11 of Schedule 2 (the statutory conditions)—

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- (i) after the words “1991” there is inserted “, or by virtue of section 53(3) of the Agricultural Holdings (Scotland) Act 2003 (asp 11)”; and
- (ii) the words from “, and that section” to the end are repealed.

Criminal Justice and Public Order Act 1994 (c. 33)

- 50 In section 106 (contracting out of prisons) of the Criminal Justice and Public Order Act 1994, in subsection (3)(b), after the words “1991” there is inserted “and the Agricultural Holdings (Scotland) Act 2003 (asp 11)”.

Town and Country Planning (Scotland) Act 1997 (c. 8)

- 51 In section 35 (notice etc. of applications to owners and agricultural tenants) of the Town and Country Planning (Scotland) Act 1997—
- (a) in subsection (1)(a)(ii), for the word “holding” there is substituted “land”; and
 - (b) in subsection (7), for the definition of “agricultural holding” there is substituted—

““agricultural land” means land comprised in a lease constituting a 1991 Act tenancy within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11) or comprised in a lease constituting a short limited duration tenancy or a limited duration tenancy (within the meaning of that Act);”.

Immigration and Asylum Act 1999 (c. 33)

- 52 In section 149 (contracting out of certain detention centres) of the Immigration and Asylum Act 1999, in subsection (3)(f), after the words “1991” there is inserted “and the Agricultural Holdings (Scotland) Act 2003 (asp 11)”.