
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 98

**The Agricultural Holdings (Scotland)
Act 2003 Remedial Order 2014**

Citation and commencement

1.—(1) This Order may be cited as the Agricultural Holdings (Scotland) Act 2003 Remedial Order 2014.

(2) This Order comes into force on the day after the day on which it is made.

Amendment of the Agricultural Holdings (Scotland) Act 2003

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2.—(1) The Agricultural Holdings (Scotland) Act 2003 ([asp 11](#)) (“the 2003 Act”) is amended as follows.

- (2) In section 72 (rights of certain persons where tenant is a limited partnership)—
- (a) in subsection (2), the words “unless the conditions mentioned in subsection (5) are met” are repealed;
 - (b) in subsection (3), in the closing words, the words “subject to subsection (4)” are repealed;
 - (c) subsections (4), (5) and (7) to (11) are repealed.
- (3) After section 72, insert—

“72A Application of section 73

(1) Section 73 applies to a tenancy continuing to have effect by virtue of section 72(6) unless the tenancy is a relevant tenancy.

(2) If—

- (a) the tenancy is a relevant tenancy,
 - (b) the circumstances described in subsection (3) do not apply, and
 - (c) the landlord gives an application notice to the tenant within the intimation period,
- section 73 applies to the tenancy from the date on which the application notice is given.

(3) The circumstances are that—

- (a) the landlord purchased the landlord’s interest in the tenancy at a time when it was no longer possible for an order under section 72(8) to be made in respect of the tenancy, or
- (b) the landlord acquired (by any means) the landlord’s interest in the tenancy from—
 - (i) the landlord who purchased that interest in the circumstances described in paragraph (a), or
 - (ii) a successor of such a landlord.

(4) In this section—

“application notice” means a notice, in writing, intimating that the landlord may bring the tenancy to an end in accordance with section 73,

“the intimation period” means the period of 12 months beginning on 28th November 2014,

“relevant tenancy” means a tenancy continuing to have effect by virtue of section 72(6) where—

- (a) the action taken by a limited partner in consequence of which the tenancy was purportedly terminated (being an action described in section 72(3)(a) to (c)) occurred before 1st July 2003,
- (b) notice was given to the landlord under section 72(6) before the coming into force of this section, and
- (c) there is no ongoing application for an order under section 72(8) in respect of the tenancy;

“successor” includes the executor, assignee, legatee, disponee, guardian, legal representative (within the meaning of Part I of the Children (Scotland) Act 1995) or (in relation to a sequestration) trustee or interim trustee, of a landlord.

(5) For the purposes of this section, a reference to an ongoing application for an order under section 72(8) is a reference to an application made to the Land Court under section 72(7) before the coming into force of this section and which, at that time—

- (a) has not been finally determined by the Land Court, or
- (b) is subject to an appeal from that Court which has not been finally determined.”.

Ongoing cases

Effect of amendments on ongoing cases

3.—(1) The repeals in article 2(2)(c) are to apply in relation to any ongoing application for an order under section 72(8) of the 2003 Act.

(2) In consequence, the Scottish Land Court (or any other court considering the application on appeal) must make an order disposing of the application in such manner as it considers reasonable.

(3) An order under paragraph (2) may, in particular—

- (a) specify shorter periods for the purposes of section 73(4) and (5) of the 2003 Act,
- (b) specify the date on which the tenancy to which the application relates is to terminate,
- (c) deal with such other matters relating to the tenancy or its termination as the Court considers appropriate.

(4) An order under paragraph (2) is to be treated as a determination of a matter by virtue of the 2003 Act.

(5) In this article, a reference to an ongoing application for an order under section 72(8) of the 2003 Act is a reference to an application made to the Scottish Land Court under section 72(7) of that Act before the coming into force of this Order and which, at that time—

- (a) has not been finally determined by the Scottish Land Court, or
- (b) is subject to an appeal from that Court which has not been finally determined.

Transitional and saving provision

Preservation of landlord's right to make an application

4.—(1) This article applies where—

- (a) a tenancy was purportedly terminated as a consequence of a limited partner mentioned in section 72(1)(b) of the 2003 Act taking an action described in section 72(3)(a) to (c) of that Act before 1st July 2003,
- (b) the landlord of the tenancy is given a notice under section 72(6) of that Act within the period of 28 days ending with the coming into force of this Order, and
- (c) no application has been made by the landlord under section 72(7) of that Act before the coming into force of this Order.

(2) The landlord may, within the period ending on the date 28 days after the date on which the notice was given under section 72(6) of the 2003 Act, apply to the Scottish Land Court for an order under article 3 of this Order.

(3) For the purposes of that article and section 72A of the 2003 Act, such an application is to be treated as being an ongoing application for an order under section 72(8) of that Act.

Continuing application of section 73 of the 2003 Act

5. Despite the repeal of section 72(10) of the 2003 Act, section 73 of that Act continues to apply in respect of any tenancy to which it applied immediately prior to that repeal.

St Andrew's House,
Edinburgh
2nd April 2014

RICHARD LOCHHEAD
A member of the Scottish Government