

Land Reform (Scotland) Bill

3rd Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the third day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Compulsory sale orders

128, 132

Non-domestic rates: vacant and derelict, and unoccupied industrial, lands and heritages

129, 130, 131, 133

Non-domestic rates: shootings and deer forests

94, 122, 123, 124, 125, 126, 95, 99

Deer management

119, 1, 2, 120, 121, 3, 4

Repairing tenancies

154, 159, 160, 161, 162, 163, 164, 165, 185, 186, 187, 188, 189, 190, 191, 195, 196, 197, 198, 199, 200, 210, 211, 219, 227, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 252, 253, 254, 255, 256, 257, 258, 260, 261, 262, 268, 270

Notes on amendments in this group

Amendments 187, 188, 189, 190 and 191 in this group are pre-empted by amendment 298 in the group “Retention of existing procedures for variation or review of rent”

Amendment 188 in this group is also pre-empted by amendment 299 in the group “Limited duration tenancies and modern limited duration tenancies: determination of initial rent”

Amendment 262 in this group is pre-empted by amendment 153 in the group “Application of repairing standard to agricultural tenancies etc.”

Modern limited duration tenancies: break clauses

155

Modern limited duration tenancies and 1991 Act tenancies: compensation for tenant's improvements on termination

272, 282

Modern limited duration tenancies: continuation

156

Modern limited duration tenancies and 1991 Act tenancies: irritancy of lease due to non-payment of rent

134, 275

Conversion of 1991 Act tenancies and limited duration tenancies into modern limited duration tenancies

157, 291, 158, 226, 228, 259

Notes on amendments in this group

Amendments 157 and 291 are direct alternatives

1991 Act tenancies: tenant's right to buy where interposed lease

292

1991 Act tenancies: absolute right to buy for certain tenants

293, 293A, 293B

Sale where landlord in breach: tenant's right not to proceed

294, 295

Agricultural holdings: minor and consequential amendments

166, 203, 205, 208, 206, 207, 212, 251, 263, 264, 265

Notes on amendments in this group

Amendment 263 and 264 in this group are pre-empted by amendment 300 in the group "Retention of existing procedures for variation or review of rent"

Sale where landlord in breach: restriction on notice to quit etc. where sale to third party

273

Sale where landlord in breach: exclusions from clawback payment after early resale

167, 167A

Rent review of 1991 Act tenancies: rent agreement date

168, 169, 170, 171, 172, 173, 174, 180, 183, 184

Rent review of 1991 Act tenancies: powers of Tenant Farming Commissioner and Land Court

274, 135, 136

Rent review of 1991 Act tenancies: procedure for regulation making powers

175, 176, 266, 267

Rent review of 1991 Act tenancies: power of Land Court to phase in increased rent

177, 178, 179, 181, 182

Retention of existing procedures for variation or review of rent

296, 298, 300

Notes on amendments in this group

Amendment 298 in this group pre-empts amendments 187, 188, 189, 190 and 191 in the group “Repairing tenancies” and amendment 299 in the group following this group

Amendment 300 in this group pre-empts amendments 263 and 264 in the group “Agricultural holdings: minor and consequential amendments”

Limited duration tenancies and modern limited duration tenancies: determination of initial rent

297, 299

Notes on amendments in this group

Amendment 299 in this group pre-empts amendment 188 in the group “Repairing tenancies” and is pre-empted by amendment 298 in the group preceding this group “Agricultural holdings: minor and consequential amendments”

1991 Act tenancies: assignation or bequest of tenancy to certain relatives

148, 192, 149, 150, 193, 194, 151

1991 Act tenancies: relinquishing and assignation of tenancy to new entrants or persons progressing in farming

201, 202, 269, 271

Amnesty for tenant’s improvements: amnesty period and giving of notice

204, 209

Amnesty for tenant’s improvements: no amnesty where improvements not consented to

276, 277, 278, 279, 280, 281

Amnesty for tenant’s improvements: dispute resolution

137, 138

Notes on amendments in this group

Amendments 137 and 138 are direct alternatives

Application of repairing standard to agricultural tenancies etc.

152, 153

Notes on amendments in this group

Amendment 153 in this group pre-empted amendment 262 in the group
“Repairing tenancies”

Use of agricultural land: diversification

283, 284

Functions of Tenant Farming Commissioner: review of schedule of improvements

285, 288, 289, 290

Functions of Tenant Farming Commissioner: general

213, 214

Functions of Tenant Farming Commissioner: mediation and arbitration

116

Review of Tenant Farming Commissioner’s functions

215, 216

Tenant Farming Commissioner: code of practice for land agents

217, 218, 220, 221, 222

Tenant Farming Commissioner: requirement to prepare codes of practice on certain topics

139, 140, 141, 142, 143, 144, 145, 146

Enforceability of codes of practice

147, 286, 287

Tenant Farming Commissioner: inquiry function

223, 224, 225

Amendments already debated

Purpose, content and effect of land rights and responsibilities statement and key definitions

With 15 – 96, 97, 97A, 117

Transparency of information about control of land: completion of Land Register, information about persons with significant control, restriction of ownership to EU entities etc.

With 103 – 69

Compliance with guidance on engaging communities in decisions relating to land

With 14 – 98

Creation of single register for exercise of rights to buy abandoned, neglected or detrimental land and to buy land to further sustainable development etc.

With 44 – 70, 71

Reversion of land bought under Part 5

With 114 – 118

Amendments in debating order

Compulsory sale orders

Sarah Boyack

128 After section 65, insert—

<PART

COMPULSORY SALE ORDERS

Compulsory sale orders

- (1) A local authority may, in relation to land within the authority's area which falls within subsection (2), make an order requiring the owner of land specified in the order to offer the land for sale by such method and within such period as is so specified (a "compulsory sale order").
- (2) That land is land which—
 - (a) has been vacant or derelict for a continuous period of at least three years prior to the date on which the compulsory sale order is made, and
 - (b) is—
 - (i) of such type as may be specified, and
 - (ii) no greater in area than the maximum area specified, for the purposes of this section by the Scottish Ministers by regulations.
- (3) A compulsory sale order may be made—
 - (a) on the authority's own initiative, or
 - (b) on an application by a community body.
- (4) The Scottish Ministers may by regulations make further provision in connection with compulsory sale orders.
- (5) Regulations under subsection (4) may in particular include provision about—
 - (a) circumstances in which a compulsory sale order may not be made,
 - (b) any consultation and notification that is to take place before a compulsory sale order may be made,
 - (c) information that is to be contained in a compulsory sale order,
 - (d) the ability of local authorities to require the giving of commitments by prospective purchasers as to the future use of land which is subject to a compulsory sale order,
 - (e) whether the owner may refuse to accept offers for land which is subject to a compulsory sale order,
 - (f) circumstances in which a local authority may, following the making of a compulsory sale order, make its own arrangements for the land subject to the order to be sold at public auction,
 - (g) a procedure for any community body which has had a request to a local authority to make a compulsory sale order refused to appeal against that decision,

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- (h) the maintenance by local authorities of registers of vacant or derelict land for the purposes of identifying land which may be made subject to a compulsory sale order.
- (6) In this section—
- “community body” means a body, whether or not formally constituted, established for purposes which consist of or include that of promoting or improving the interests of any communities (however described) present in the area in which the vacant or derelict land is situated,
- “land” includes buildings (including residential properties and individual properties within tenements).>

Sarah Boyack

- 132** In section 99, page 101, line 27, at end insert—

<() section (*Compulsory sale orders*)(2) and (4),>

Non-domestic rates: vacant and derelict, and unoccupied industrial, lands and heritages

Patrick Harvie

- 129** Before section 66, insert—

<Entry in valuation roll of vacant and derelict land

Entry in valuation roll of vacant and derelict land

- (1) The Local Government (Scotland) Act 1975 is amended as follows.
- (2) After section 1, insert—

“1ZA Entry in valuation roll of vacant and derelict lands and heritages

- (1) The assessor for each valuation area must, in making up the valuation roll in respect of the first year of revaluation which follows the date on which section (*Entry in valuation roll of vacant and derelict land*) of the Land Reform (Scotland) Act 2016 first comes into force and subsequent valuation rolls, comply with subsection (2).
- (2) The valuation roll must include—
- (a) all vacant and derelict lands and heritages within the valuation area (including lands on which there is no building), and
- (b) a rateable value for all such lands and heritages based on such method prescribed by virtue of section 6(1) as the assessor considers appropriate.”.>

Patrick Harvie

- 130** In section 67, page 50, line 5, leave out <1> and insert <1ZA (as inserted by section (*Entry in valuation roll of vacant and derelict land*)>

Patrick Harvie

- 131** After section 67, insert—

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<Unoccupied industrial lands and heritages

Rating of unoccupied industrial lands and heritages

In Part 1 of the schedule of the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994, paragraph (a)(iii) (which refers to industrial lands and heritages) is revoked.>

Patrick Harvie

- 133** In section 103, page 102, line 12, after <sections> insert <(Entry in valuation roll of vacant and derelict land),>

Non-domestic rates: shootings and deer forests

Alex Fergusson

- 94** Leave out section 66

Aileen McLeod

- 122** In section 67, page 50, line 8, leave out <the yearly value of>

Aileen McLeod

- 123** In section 67, page 50, line 9, at end insert <relating to,>

Aileen McLeod

- 124** In section 67, page 50, line 10, at end insert <, in so far as situated in,>

Aileen McLeod

- 125** In section 67, page 50, line 11, leave out <in so far as exercisable or, as the case may be, situated in>

Michael Russell

- 126** In section 67, page 50, line 11, at end insert—

<() In determining the rateable value of any shootings or deer forests, the assessor may make such deduction from the net annual value as the assessor considers appropriate to reflect good management in the public interest of the shootings or deer forests.”.>

Alex Fergusson

- 95** Leave out section 67

Alex Fergusson

- 99** In the long title, page 1, line 6, leave out from first <to> to <forests;> in line 7

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Deer management

Claudia Beamish

119 In section 70, page 51, line 4, at end insert—

<() After section 5A insert—

“5B Requirement to comply with code of practice

- (1) SNH may, for the purposes of any of its deer functions, by notice served on an owner or occupier of land, give notice that, in the opinion of SNH, that owner or occupier is not complying with a code of practice on deer management drawn up and approved under section 5A.
- (2) A notice served under subsection (1) must—
 - (a) be in writing;
 - (b) specify the manner in which the owner or occupier has failed to comply with the code of practice;
 - (c) specify the steps that must be taken by the owner or occupier to comply with the code of practice; and
 - (d) specify the period of time by the end of which the steps must be taken.
- (3) An owner or occupier may appeal to the Scottish Land Court against—
 - (a) the decision by SNH to give notice under subsection (1);
 - (b) any of the matters specified in the notice under paragraphs (b) to (d) of subsection (2).
- (4) An appeal under subsection (3) must be made not later than 28 days after the date on which the notice was served.
- (5) The Scottish Land Court—
 - (a) must determine an appeal under subsection (3) on its merits rather than by way of review;
 - (b) may dispose of the appeal by—
 - (i) affirming the notice;
 - (ii) directing SNH to amend the notice in such manner as the Court thinks fit;
 - (iii) directing SNH to revoke the notice; or
 - (iv) making such other order as the Court thinks fit.
- (6) An owner or occupier on whom a notice under subsection (1) is served commits an offence where—
 - (a) the owner or occupier has failed to carry out the steps specified under subsection (2)(c) within the period of time specified under subsection (2)(d); and
 - (b) subsection (7) applies.
- (7) This subsection applies where—
 - (a) the owner or occupier has not appealed under subsection (3) within the time specified in subsection (4); or

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- (b) where an appeal has been made, the Scottish Land Court has affirmed the notice either in full or in part such that the steps specified under subsection (2)(c) to be taken within the period of time specified under subsection (2)(d) continue to apply.”>

Michael Russell

1 In section 70, page 51, line 7, at end insert—

<“6ZA Public register of deer management plans

- (1) This section applies to owners and occupiers of land who, in the form of a deer management group, produce a deer management plan.
- (2) Such owners and occupiers of land must upon production of a deer management plan—
 - (a) give notice via a public register, managed by Scottish Natural Heritage, that a new deer management plan is proposed,
 - (b) specify in the notice the period within which, and the manner in which, representations or objections with respect to the proposed deer management plan may be made,
 - (c) specify in the notice details of—
 - (i) where and how such representations or objections (if any are made) may be viewed, and
 - (ii) how copies of any such representations or objections that are made may be obtained,
 - (d) consult persons who, so far as they can reasonably ascertain, have an interest in, or may be affected by, the proposed plan, and
 - (e) specify the period (being not less than 28 days beginning with the date of consultation) within which, and the manner in which, representations or objections with respect to the proposed deer management plan may be made by such persons.
- (3) In producing the final deer management plan, the deer management group must take into account any representations and objections made in respect of it.
- (4) Having decided whether or not to make the proposed changes made by representations to the deer management plan consultation, and following agreement by Scottish Natural Heritage that no amendments are required, the applicant must—
 - (a) publish in a newspaper (which may be a local newspaper) circulating in the district or districts affected by the proposed plan a notice containing—
 - (i) a summary of the reasons for the decision,
 - (ii) details of where and how a written statement of such reasons may be viewed, and
 - (iii) details of how copies of such a written statement may be obtained, and

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- (b) send a copy of such a written statement to any person who made representations or objections to the proposed deer management plan under this section.
- (5) The costs of complying with this section are to be met by the owners and occupiers of the land to which the plan applies.>

Michael Russell

- 2** In section 70, page 52, line 2, before <without> insert <with or>

Claudia Beamish

- 120** In section 70, page 52, line 16, at end insert—

<() After section 16 insert—

“Power to impose further sustainable deer management requirements

16A Amendments to deer management provisions

- (1) The Scottish Ministers may by regulations modify this Act to impose further requirements on owners and occupiers of land in respect of the sustainable management (within the meaning given by a code of practice drawn up and approved under section 5A) of deer populations.
- (2) Regulations under this section are subject to the affirmative procedure.”.
- () In section 47 (orders, regulations etc.), in subsection (1), for “section” substitute “sections 16A(2) and”.>

Claudia Beamish

- 121** In section 70, page 52, line 16, at end insert—

<() In Schedule 3 (penalties)—

- (a) after the entry relating to section 5(5), in column 1, insert “5B(6)”,
- (b) in column 2, opposite the entry inserted by paragraph (a), insert “Failure to comply with notice issued in relation to code of practice”,
- (c) in column 3, opposite the entry inserted by paragraph (b), insert “a fine of level 4 on the standard scale or 6 months imprisonment or both”.>

Michael Russell

- 3** After section 70, insert—

<Power to require return on number of deer planned to be killed

- (1) Section 40 of the Deer (Scotland) Act 1996 (power of SNH to require return of number of deer killed) is amended as follows.
- (2) In subsection (1), at the end insert “or how many deer or each species and of each sex are planned to be taken or killed in the following year.”.
- (3) In subsection (2)(b), after “preceding” insert “or, as the case may be, following”.
- (4) In subsection (3), after “above” insert “, where it precedes the notice,”.
- (5) After subsection (3), insert—

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“(3A) A period specified by virtue of subsection (2)(b) above, where it follows the notice, shall not exceed one year.”.>

Michael Russell

- 4 In section 103, page 102, line 12, after <sections> insert <69 to 71,>

Repairing tenancies

Richard Lochhead

- 154 In section 74, page 56, line 1, after <tenancy> insert <or a repairing tenancy>

Richard Lochhead

- 159 After section 79, insert—

<CHAPTER

REPAIRING TENANCIES

Repairing tenancies: creation

- (1) The 2003 Act is amended as follows.
- (2) After section 5B (as inserted by section 74) insert—

“5C Repairing tenancies: creation

- (1) Where—
 - (a) agricultural land is let under a lease entered into on or after the coming into force of this section for a term of not less than 35 years,
 - (b) the land comprised in the lease is not let to the tenant during the tenant’s continuance in any office, appointment or employment held under the landlord,
 - (c) the lease does not constitute a 1991 Act tenancy,
 - (d) the lease requires the tenant, during the repairing period, to improve the land comprised in the lease in order to bring it into a state capable of being farmed, after the expiry of the repairing period, in accordance with the rules of good husbandry, and
 - (e) the lease expressly states that this section is to apply to the tenancy,the tenancy is, by virtue of this subsection, a repairing tenancy.
- (2) In this Part, the “repairing period” is the period, beginning with the commencement of the tenancy, of—
 - (a) 5 years, or
 - (b) such longer period as the landlord and tenant may agree.
- (3) The Land Court may, during the repairing period, extend the repairing period on the application of either the landlord or the tenant.
- (4) A lease constituting a repairing tenancy may contain a provision that the tenancy may be terminated in accordance with section 8G (a “break clause”).

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- (5) In this section and section 5D, what is good husbandry is to be construed by reference to schedule 6 of the Agriculture (Scotland) Act 1948.

5D Repairing tenancies: exemption from rules of good husbandry during repairing period

- (1) Where a lease constituting a repairing tenancy does not include provision mentioned in subsection (2), such provision is incorporated.
- (2) The provision is that during the repairing period the tenant cannot be held liable for not farming the land comprised in the lease in accordance with the rules of good husbandry.”.>

Richard Lochhead

160 After section 79, insert—

<Repairing tenancies: subletting

- (1) The 2003 Act is amended as follows.
- (2) After section 7B (as inserted by section 86) insert—

“7C Subletting of repairing tenancies

- (1) During the repairing period, a tenant may not sublet the land comprised in a lease constituting a repairing tenancy without the consent of the landlord.
- (2) After the expiry of the repairing period, a tenant may sublet the land comprised in a lease constituting a repairing tenancy only on such basis as the lease expressly permits.”.>

Richard Lochhead

161 After section 79, insert—

<Repairing tenancies: termination, continuation and extension

- (1) The 2003 Act is amended as follows.
- (2) After section 8E (as inserted by section 76) insert—

“8F Termination, continuation and extension of repairing tenancies

- (1) Subject to section 8G, sections 8A to 8C apply to the termination of a repairing tenancy as to the termination of a modern limited duration tenancy.
- (2) Section 8E applies to the continuation and extension of a repairing tenancy as to the continuation and extension of a modern limited duration tenancy.

8G Termination of repairing tenancies subject to break clause

- (1) This section applies where the lease constituting a repairing tenancy contains a break clause by virtue of section 5C(4).
- (2) At any time until the expiry of the repairing period, the tenant may terminate the tenancy by giving a notice under this subsection to the landlord.
- (3) A notice under subsection (2) must—

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- (a) be in writing and state that the tenant intends to quit the land on a date specified in the notice, which is to be no later than the expiry of the repairing period, and
 - (b) be given not less than 1 year nor more than 2 years before the date specified in the notice.
- (4) The landlord may terminate the tenancy on the expiry of the repairing period by giving a notice under this subsection to the tenant.
- (5) A notice under subsection (4) must—
 - (a) be in writing and state—
 - (i) that the tenant must quit the land on the expiry of the repairing period, and
 - (ii) the landlord's reasons for terminating the tenancy, and
 - (b) be given not less than 1 year nor more than 2 years before the expiry of the repairing period.
- (6) The landlord—
 - (a) may not give notice under subsection (4) on the grounds that the tenant is not farming the land in accordance with the rules of good husbandry,
 - (b) may give notice under subsection (4) if the tenant is otherwise failing to comply with any other provision of the lease.
- (7) For the purposes of subsection (6), what is good husbandry is to be construed by reference to schedule 6 of the Agriculture (Scotland) Act 1948.”>

Richard Lochhead

162 After section 79, insert—

<Repairing tenancies: fixed equipment

- (1) The 2003 Act is amended as follows.
- (2) After section 16A (as inserted by section 77) insert—

“16B Repairing tenancies: fixed equipment

- (1) Where a lease constituting a repairing tenancy is entered into and fixed equipment is comprised in the lease, the parties must agree in writing a schedule of fixed equipment specifying—
 - (a) the fixed equipment which the landlord will provide during the repairing period as will enable the tenant to maintain efficient production, after the expiry of the repairing period, as respects the use of the land as specified in the lease,
 - (b) the condition of such fixed equipment, and
 - (c) any fixed equipment on the land which may be disregarded for the purposes of subsections (5) and (6),and on being so agreed (or, failing such agreement, on being determined in accordance with section 77 or 78) the schedule of fixed equipment is deemed to form part of the lease.

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- (2) The schedule of fixed equipment must be agreed before the expiry of the period of 90 days beginning with the commencement of the tenancy.
- (3) If at any time after the commencement of the tenancy the fixed equipment or its condition is varied, the landlord and tenant may agree to amend the schedule of fixed equipment accordingly or to substitute for it a new schedule.
- (4) The cost of making and agreeing the schedule of fixed equipment under this section must, unless otherwise agreed, be borne by the landlord and tenant in equal shares.
- (5) Unless the lease makes provision to the contrary, there is incorporated in every such lease an undertaking by the tenant that the tenant will, during the repairing period—
 - (a) provide such fixed equipment, and
 - (b) effect such maintenance, renewal or replacement of the fixed equipment provided by the tenant by virtue of paragraph (a) and by the landlord by virtue of subsection (1)(a),as may be necessary to enable the tenant to maintain efficient production, after the expiry of the repairing period, as respects the use of the land as specified in the lease.
- (6) Unless the lease makes provision to the contrary, there is also incorporated in every such lease—
 - (a) an undertaking by the landlord that the landlord will, after the expiry of the repairing period, effect such renewal or replacement of the fixed equipment specified in the schedule of fixed equipment as may be rendered necessary by natural decay or by fair wear and tear, and
 - (b) a provision that the liability of the tenant in relation to the maintenance of fixed equipment, after the expiry of the repairing period, extends only to a liability to maintain the fixed equipment specified in the schedule of fixed equipment in as good a state of repair (natural decay and fair wear and tear excepted) as it was in—
 - (i) at the expiry of the repairing period, or
 - (ii) in the case of equipment improved, provided, renewed or replaced, after the expiry of the repairing period, immediately after it was so improved, provided, renewed or replaced.
- (7) Subsections (5) and (6) do not apply to any fixed equipment specified in the schedule of fixed equipment by virtue of subsection (1)(c).
- (8) Any agreement between the landlord and tenant which purports to provide for the tenant, whether during the repairing period or after its expiry, to bear any expense of any work which the landlord is required to execute in order to fulfil the landlord's obligations under the lease is of no effect.
- (9) Any term of a lease constituting a repairing tenancy that requires the tenant, whether during the repairing period or after its expiry, to pay the whole or any part of the premium due under a fire insurance policy over any fixed equipment on the land is of no effect.”>

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Richard Lochhead

163 After section 79, insert—

<Repairing tenancies: resumption of land by landlord

- (1) The 2003 Act is amended as follows.
- (2) After section 17 insert—

“17A Resumption of land by landlord: repairing tenancies

- (1) Until 5 years have elapsed from the date of expiry of the repairing period, the landlord may not resume the land or any part of the land comprised in the lease constituting the repairing tenancy.
- (2) After 5 years have elapsed from the date of expiry of the repairing period, section 17 applies to the resumption of the land or any part of the land comprised in a lease constituting a repairing tenancy as it applies to the resumption of the land or any part of the land comprised in a lease constituting a limited duration tenancy or a modern limited duration tenancy.”.>

Richard Lochhead

164 After section 79, insert—

<Repairing tenancies: irritancy

- (1) The 2003 Act is amended as follows.
- (2) After section 18A (as inserted by section 78)—

“18B Irritancy of lease and good husbandry: repairing tenancies

- (1) During the repairing period, the landlord may not irritate a lease constituting a repairing tenancy on the grounds that the tenant is not farming the land comprised in the lease in accordance with the rules of good husbandry.
- (2) For the purposes of subsection (1), what is good husbandry is to be construed by reference to schedule 6 of the Agriculture (Scotland) Act 1948.
- (3) After the expiry of the repairing period, section 18A applies to the irritancy of a lease constituting a repairing tenancy as to the irritancy of a lease constituting a modern limited duration tenancy.”.>

Richard Lochhead

165 After section 79, insert—

<Repairing tenancies: compensation

- (1) The 2003 Act is amended as follows.
- (2) After section 59 insert—

“59A Compensation under repairing tenancies

The Scottish Ministers may by regulations provide that Part 4, in its application to repairing tenancies, has effect with such modifications as the regulations may specify.”.>

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Richard Lochhead

- 185 In section 83, page 79, line 29, leave out <“or a modern limited duration tenancy”> and insert <“, a modern limited duration tenancy or a repairing tenancy”>

Richard Lochhead

- 186 In section 83, page 79, line 30, at end insert—
<() after subsection (1) insert—
“(1A) The rent due as payable under a lease constituting a repairing tenancy is to be reviewed and determined in accordance with this section.”,>

Richard Lochhead

- 187 In section 83, page 79, line 38, leave out <**and modern limited duration tenancies**> and insert <**, modern limited duration tenancies and repairing tenancies**>

Richard Lochhead

- 188 In section 83, page 80, line 36, leave out <or modern limited duration tenancies> and insert <, modern limited duration tenancies and repairing tenancies>

Richard Lochhead

- 189 In section 83, page 81, line 1, leave out <**and modern limited duration tenancies**> and insert <**, modern limited duration tenancies and repairing tenancies**>

Richard Lochhead

- 190 In section 83, page 81, line 4, leave out <or a modern limited duration tenancy> and insert <, a modern limited duration tenancy or a repairing tenancy>

Richard Lochhead

- 191 In section 83, page 81, line 30, leave out <or modern limited duration tenancies> and insert <, modern limited duration tenancies or repairing tenancies>

Richard Lochhead

- 195 After section 86, insert—
 <**Assignment of repairing tenancies**
 (1) The 2003 Act is amended as follows.
 (2) After section 7C (as inserted by section (*Repairing tenancies: subletting*)) insert—
 “**7D Assignment of repairing tenancies**
 (1) During the repairing period, a lease constituting a repairing tenancy may be assigned by the tenant if, following notice under subsection (2), the landlord consents to a proposed assignment.
 (2) The tenant must give the landlord a notice in writing of any intention of the tenant to assign the lease during the repairing period; and the notice must include the particulars of the proposed assignee, the terms upon which the assignment is to be made and the date on which it is to take effect.

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- (3) The landlord may withhold consent to the proposed assignation during the repairing period if there are reasonable grounds for doing so; and, in particular, the landlord may withhold consent if not satisfied that the proposed assignee—
 - (a) would have the ability to pay—
 - (i) the rent due under the lease, or
 - (ii) for investment in the land in order to bring it into a state capable of being farmed, after the expiry of the repairing period, in accordance with the rules of good husbandry, or
 - (b) has the skills or experience that would be required properly to manage and improve the land in order to bring it into a state capable of being farmed, after the expiry of the repairing period, in accordance with the rules of good husbandry.
- (4) The ground of objection in subsection (3)(b) does not apply where the person—
 - (a) is engaged in or will begin, before the expiry of the period of 6 months beginning with the date of the notice under subsection (2), a course of relevant training in agriculture which the person is expected to complete satisfactorily within 4 years from that date, and
 - (b) has made arrangements to secure that the land is farmed with reasonable efficiency until the person completes that course.
- (5) Any such withholding of consent during the repairing period (and the grounds for withholding it) is to be intimated in writing to the tenant within 30 days of the giving of notice under subsection (2); and, if no such intimation is made, the landlord is deemed to have consented to the proposed assignation.
- (6) For the purposes of subsection (3), what is good husbandry is to be construed by reference to schedule 6 of the Agriculture (Scotland) Act 1948.
- (7) After the expiry of the repairing period, section 7B applies to the assignation of a lease constituting a repairing tenancy as to the assignation of a lease constituting a modern limited duration tenancy.”.>

Richard Lochhead

- 196** In section 88, page 86, line 27, leave out <or a modern limited duration tenancy> and insert <, a modern limited duration tenancy or a repairing tenancy>

Richard Lochhead

- 197** In section 88, page 86, line 29, leave out <or a modern limited duration tenancy> and insert <, a modern limited duration tenancy or a repairing tenancy>

Richard Lochhead

- 198** In section 88, page 86, line 32, leave out <or a modern limited duration tenancy> and insert <, a modern limited duration tenancy or a repairing tenancy>

Richard Lochhead

- 199** In section 88, page 86, line 35, leave out <and “modern limited duration> and insert <, “modern limited duration tenancy” and “repairing>

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Richard Lochhead

- 200 In section 88, page 87, line 2, leave out <or a modern limited duration tenancy"> and insert <, a modern limited duration tenancy or a repairing tenancy">

Richard Lochhead

- 210 In section 96, page 97, line 11, at end insert <or
() subject to subsection (1A), a repairing tenancy within the meaning of section 5C,>

Richard Lochhead

- 211 In section 96, page 97, line 12, at end insert—
<(1A) Subsection (1) does not apply in respect of the landlord of a repairing tenancy in relation to which the repairing period has not expired.>

Richard Lochhead

- 219 In section 25, page 12, line 1, after <tenancy> insert <and a repairing tenancy>

Richard Lochhead

- 227 In the schedule, page 103, line 9, leave out <or modern limited duration tenancies"> and insert <, modern limited duration tenancies or repairing tenancies">

Richard Lochhead

- 229 In the schedule, page 103, line 13, leave out <or modern limited duration tenancy"> and insert <, modern limited duration tenancy or repairing tenancy">

Richard Lochhead

- 230 In the schedule, page 103, line 15, leave out <or a modern limited duration tenancy"> and insert <, a modern limited duration tenancy or a repairing tenancy">

Richard Lochhead

- 231 In the schedule, page 103, line 21, at end insert <, or
(v) a repairing tenancy within the meaning of that Act.".>

Richard Lochhead

- 232 In the schedule, page 103, line 25, leave out <or a modern limited duration tenancy"> and insert <, a modern limited duration tenancy or a repairing tenancy">

Richard Lochhead

- 233 In the schedule, page 103, line 30, leave out <or a modern limited duration tenancy"> and insert <, a modern limited duration tenancy or a repairing tenancy">

Richard Lochhead

- 234 In the schedule, page 104, line 2, leave out <"or a modern limited duration tenancy"> and insert <"a modern limited duration tenancy or a repairing tenancy">

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Richard Lochhead

- 235** In the schedule, page 104, line 4, leave out <“or a modern limited duration tenancy”> and insert <“, a modern limited duration tenancy or a repairing tenancy”>

Richard Lochhead

- 236** In the schedule, page 104, line 5, leave out <or 16A”> and insert <, 16A or 16B”>

Richard Lochhead

- 237** In the schedule, page 104, line 7, leave out <or a modern limited duration tenancy”> and insert <, a modern limited duration tenancy or a repairing tenancy”>

Richard Lochhead

- 238** In the schedule, page 104, line 12, leave out <or a modern limited duration tenancy”> and insert <, a modern limited duration tenancy or a repairing tenancy”>

Richard Lochhead

- 239** In the schedule, page 104, line 13, leave out <“or section 16A”> and insert <“section 16A or, as the case may be, section 16B”>

Richard Lochhead

- 240** In the schedule, page 104, line 14, leave out <“or 16A”> and insert <“, 16A or, as the case may be, 16B”>

Richard Lochhead

- 241** In the schedule, page 104, line 15, leave out <“or section 16A”> and insert <“ section 16A or, as the case may be, section 16B,”>

Richard Lochhead

- 242** In the schedule, page 104, line 16, leave out <“or 16A”> and insert <“ 16A or, as the case may be, 16B”>

Richard Lochhead

- 243** In the schedule, page 104, line 18, leave out <and modern limited duration tenancies”> and insert <, modern limited duration tenancies and repairing tenancies”>

Richard Lochhead

- 244** In the schedule, page 104, line 21, leave out <and modern limited duration tenancies”> and insert <, modern limited duration tenancies and repairing tenancies”>

Richard Lochhead

- 245** In the schedule, page 104, line 28, leave out <or a modern limited duration tenancy”> and insert <, a modern limited duration tenancy or a repairing tenancy”>

Richard Lochhead

- 246** In the schedule, page 104, line 32, leave out <or a modern limited duration tenancy”> and insert <, a modern limited duration tenancy or a repairing tenancy”>

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Richard Lochhead

- 247 In the schedule, page 104, line 34, leave out <or a modern limited duration tenancy"> and insert <, a modern limited duration tenancy or a repairing tenancy">

Richard Lochhead

- 248 In the schedule, page 104, line 36, leave out <or a modern limited duration tenancy"> and insert <, a modern limited duration tenancy or a repairing tenancy">

Richard Lochhead

- 249 In the schedule, page 105, line 1, at end insert <, or
(d) tenancy under a lease constituting a repairing tenancy,".>

Richard Lochhead

- 250 In the schedule, page 105, line 5, after <tenancy> insert <, or
(d) a repairing tenancy,".>

Richard Lochhead

- 252 In the schedule, page 106, line 11, leave out <or a modern limited duration tenancy"> and insert <, a modern limited duration tenancy or a repairing tenancy">

Richard Lochhead

- 253 In the schedule, page 106, line 14, leave out <(2)(a),> and insert <(2)(a)—
() “or” immediately after sub-paragraph (ii) is repealed,
()>

Richard Lochhead

- 254 In the schedule, page 106, line 15, at end insert <or
(iib) a repairing tenancy,".>

Richard Lochhead

- 255 In the schedule, page 106, line 17, leave out <“or a modern limited duration tenancy"> and insert <“, a modern limited duration tenancy or a repairing tenancy">

Richard Lochhead

- 256 In the schedule, page 106, line 18, leave out <7A(1)”> and insert <7B(1), 7D(1) or 7D(7)”>

Richard Lochhead

- 257 In the schedule, page 106, line 20, leave out <“, a modern limited duration tenancy"> and insert <“, a modern limited duration tenancy, a repairing tenancy">

Richard Lochhead

- 258 In the schedule, page 106, line 22, leave out <and modern limited duration tenancies"> and insert <, modern limited duration tenancies and repairing tenancies">

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Richard Lochhead

- 260** In the schedule, page 106, line 26, at end insert—
 <() after the definition of “the Parliament” insert—
 ““repairing tenancy” is to be construed in accordance with section 5C,”>

Richard Lochhead

- 261** In the schedule, page 106, line 31, leave out <or modern limited duration tenancy> and insert <, modern limited duration tenancy or repairing tenancy>

Richard Lochhead

- 262** In the schedule, page 106, line 38, at end insert <or
 (E) a repairing tenancy (within the meaning of that Act),”.>

Richard Lochhead

- 268** In the schedule, page 110, line 9, after <38N(4)> insert <, 59A>

Richard Lochhead

- 270** In the long title, page 1, line 9, leave out <a new form> and insert <new forms>

Modern limited duration tenancies: break clauses

Richard Lochhead

- 155** In section 74, page 56, line 22, at end insert—
 <() Section 5B does not apply to a modern limited duration tenancy created under subsection (2), (3) or (4).>

Modern limited duration tenancies and 1991 Act tenancies: compensation for tenant’s improvements on termination

Claudia Beamish

- 272** In section 76, page 57, leave out lines 18 to 21 and insert <, and
 (c) specify, in relation to any improvements made (or expected to be made) by the tenant during the tenancy for which compensation is (or would be) payable under Part 4 of this Act, an amount of compensation that has been agreed between the landlord and the tenant or determined by arbitration.
 (3) A notice under subsection (1) is of no effect unless the landlord has given to the tenant, not less than 2 years nor more than 3 years before the expiry of the term of the tenancy, written intimation of—
 (a) the landlord’s intention to terminate the tenancy, and

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- (b) in relation to any improvements made (or expected to be made) by the tenant during the tenancy for which compensation is (or would be) payable under Part 4 of this Act, either or both of—
 - (i) a proposed amount of compensation,
 - (ii) the landlord's intention to refer the amount of that compensation to arbitration (if it cannot be agreed with the tenant).>

Claudia Beamish

282 After section 95, insert—

<Waygo procedure

Two-stage procedure for assessing compensation for tenants' improvements

- (1) Section 21 of the 1991 Act (notice to quit and notice of intention to quit) is amended as follows—
 - (a) in subsection (3), add at the end—
 - “(e) if it is a notice to quit—
 - (i) it is given at least 90 days after the intimation mentioned in subsection (3A) is given, and
 - (f) it specifies, in relation to any improvements made (or expected to be made) by the tenant during the tenancy for which compensation is payable under Part 4 of this Act, an amount of compensation that has been agreed between the landlord and the tenant or determined by arbitration.”,
 - (b) after that subsection, insert—
 - “(3A) A notice to quit under subsection (3) is of no effect unless the landlord has given to the tenant, not less than 2 years nor more than 3 years before the expiry of the term of the tenancy, written intimation of—
 - (a) the landlord's intention to terminate the tenancy, and
 - (b) in relation to any improvements made (or expected to be made) by the tenant during the tenancy for which compensation is (or would be) payable under Part 4 of this Act, either or both of—
 - (i) a proposed amount of compensation,
 - (ii) the landlord's intention to refer the amount of that compensation to arbitration (if it cannot be agreed with the tenant).”.
- (2) The 2003 Act is amended as follows.
- (3) In section 6 (assignment, subletting and termination of short limited duration tenancies), add at the end of subsection (4) “if the agreement is in writing and makes provision as to compensation payable by the landlord or the tenant to the other”.
- (4) In section 8 (continuation and termination of limited duration tenancies)—
 - (a) in subsection (4), add at the end—

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“(c) specify, in relation to any improvements made (or expected to be made) by the tenant during the tenancy for which compensation is (or would be) payable under Part 4 of this Act, an amount of compensation that has been agreed between the landlord and the tenant or determined by arbitration.”,

(b) after subsection (5) insert—

“(5A) An intimation under subsection (5) must include, in relation to any improvements made (or expected to be made) by the tenant during the tenancy for which compensation is (or would be) payable under Part 4 of this Act, either or both of—

(a) a proposed amount of compensation,

(b) the landlord’s intention to refer the amount of that compensation to arbitration (if it cannot be agreed with the tenant).”.>

Modern limited duration tenancies: continuation

Richard Lochhead

156 In section 76, page 58, line 19, leave out <10> and insert <7>

Modern limited duration tenancies and 1991 Act tenancies: irritancy of lease due to non-payment of rent

Claudia Beamish

134 In section 78, page 60, line 7, at end insert—

<(2A) 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 set out in subsection (2B) is, unless subsection (2C) applies, of no effect.

(2B) The grounds are that the tenant has not made, or has not made in full, a payment of the rent due under the lease.

(2C) This subsection applies if—

(a) the tenant was given an invoice for the payment before the date on which payment was due, and

(b) the tenant was given a reasonable opportunity to make the payment after the date on which it was due.>

Claudia Beamish

275 After section 83, insert—

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<CHAPTER

NON-PAYMENT OF RENT

Circumstances in which non-payment of rent constitutes grounds for irritancy or removal of tenant

- (1) Section 20 (removal of tenant for non-payment of rent) of the 1991 Act is amended as follows—
 - (a) in subsection (1), after “entitled”, insert “, subject to subsection (1A),”,
 - (b) after that subsection insert—

“(1A) Subsection (1) only applies if—

 - (a) the tenant was given, before they were due to be paid, invoices for all the amounts of rent in question, and
 - (b) the tenant was given a reasonable opportunity to pay each such amount after the date on which it was due.”.
- (2) In section 18 (irritancy of lease and good husbandry) of the 2003 Act, after subsection (2) insert—

“(2A) 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 set out in subsection (2B) is, unless subsection (2C) applies, of no effect.

(2B) The grounds are that the tenant has not made, or has not made in full, a payment of the rent due under the lease.

(2C) This subsection applies if—

 - (a) the tenant was given an invoice for the payment before the date on which payment was due, and
 - (b) the tenant was given a reasonable opportunity to make the payment after the date on which it was due.”.>

Conversion of 1991 Act tenancies and limited duration tenancies into modern limited duration tenancies

Richard Lochhead

- 157 Leave out section 79 and insert—

<Conversion of 1991 Act tenancies

Conversion of 1991 Act tenancies into modern limited duration tenancies

- (1) The 2003 Act is amended as follows.
- (2) Section 2 is repealed.
- (3) After that section insert—

“2A **Conversion from 1991 Act tenancy to modern limited duration tenancy**

 - (1) The landlord and tenant under a 1991 Act tenancy may terminate the tenancy by agreement in writing provided that—
 - (a) the agreement—

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- (i) specifies the date on which the termination is to have effect, and
 - (ii) is made not less than 30 days before that date, and
- (b) subsection (2) is complied with.
- (2) This subsection is complied with if the landlord and tenant enter into a lease constituting a modern limited duration tenancy for a term of not less than 25 years which—
 - (a) comprises or includes the same land as that comprised in the tenancy being terminated under subsection (1), and
 - (b) has effect from the date on which the termination under that subsection has effect.
- (3) The landlord or tenant is entitled, at any time before the date on which the termination under subsection (1) has effect, to revoke (without penalty)—
 - (a) the agreement made under that subsection, and
 - (b) the lease mentioned in subsection (2),by giving notice in writing to the other of the revocation.
- (4) On termination of a 1991 Act tenancy under subsection (1), the tenant is entitled to—
 - (a) such compensation for improvements as the tenant would have been entitled to under Part 4 (compensation for improvements) of the 1991 Act (or, as the case may be, under the lease), and
 - (b) such compensation as the tenant would have been entitled to under section 45A (compensation arising as a result of diversification and cropping of trees) of that Act,were the tenant quitting the holding as a result of the termination of the tenancy.
- (5) Where a 1991 Act tenancy is terminated under subsection (1), section 21 (notice to quit and notice of intention to quit) of the 1991 Act does not apply in respect of the tenancy.
- (6) Section 5B does not apply to a modern limited duration tenancy created under this section.”.>

Alex Fergusson

291 Leave out section 79 and insert—

<Conversion of 1991 Act tenancies into modern limited duration tenancies and assignation

- (1) The Scottish Ministers may by regulations make provision for the conversion of 1991 Act tenancies into modern limited duration tenancies and the assignation of any tenancy so converted to an individual who is a new entrant to, or who is progressing in, farming.
- (2) A 1991 Act tenancy is converted into a modern limited duration tenancy if, in accordance with regulations under subsection (1)—
 - (a) the lease of the 1991 Act tenancy is terminated, and
 - (b) the tenant and the landlord enter into, or are deemed to enter into, a lease constituting a modern limited duration tenancy which—

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- (i) has a term of 25 years,
 - (ii) comprises or includes the same land as that comprised in the 1991 Act tenancy, and
 - (iii) has effect from the date of termination of that tenancy.
- (3) The tenant must in accordance with regulations under subsection (1) serve a notice on the landlord intimating that the tenant wishes to convert the tenancy to a modern limited duration tenancy (“the notice of conversion and assignation”), specifying in particular the identity of the proposed assignee and the value which the proposed assignee has agreed to pay for the modern limited duration tenancy.
- (4) The landlord may in accordance with regulations under section (1)—
 - (a) serve a notice on the tenant stating that the landlord does not wish to accept the notice of conversion and assignation and, in exchange for the tenant quitting the tenancy, the landlord shall pay the tenant a sum of money equal to the amount to be paid by the proposed assignee as set out in the notice of conversion and assignation, or
 - (b) serve a notice on the tenant stating that the landlord wishes to accept the notice of conversion and assignation.
- (5) Where a notice has been served in accordance with subsection (4)(b), the tenant may in accordance with regulations under subsection (1), convert the tenancy to a modern limited duration tenancy and assign it to an individual who is a new entrant to, or is progressing in, farming.
- (6) Regulations under subsection (1) may, in particular, include provision about—
 - (a) the individuals who are new entrants to, or who are progressing in, farming,
 - (b) the procedure for and effects of conversion and assignation, including—
 - (i) the content and form of the notice of conversion and assignation, and
 - (ii) the information that may or must accompany a notice of conversion and assignation,
 - (c) the period following the notice of conversion and assignation within which the landlord must serve notice under subsection (4),
 - (d) the effect of a notice of conversion and assignation on the tenant’s and the landlord’s rights and obligations during the period following the giving of notice,
 - (e) the effect, on the notice of conversion and assignation and on the proposed conversion and assignation, where any matters are pending before the Land Court when the notice is given,
 - (f) the terms of the lease for the modern limited duration tenancy, including the terms where the tenant and the landlord do not agree about any matter,
 - (g) the effect of conversion and assignation on any entitlement to compensation under Parts 4 and 5 of the 1991 Act, and
 - (h) the application of section 7B of the 2003 Act in relation to the assignation of the modern limited duration tenancy.
- (7) Regulations under subsection (1) may modify any enactment (including this Act).>

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Richard Lochhead

158 After section 79, insert—

<Conversion of limited duration tenancies

Conversion of limited duration tenancies into modern limited duration tenancies

- (1) The 2003 Act is amended as follows.
- (2) After section 2A (as inserted by section (*Conversion of 1991 Act tenancies into modern limited duration tenancies*)) insert—

“2B Conversion from limited duration tenancy to modern limited duration tenancy

- (1) The landlord and tenant under a limited duration tenancy may terminate the tenancy by agreement in writing provided that—
 - (a) the agreement—
 - (i) specifies the date on which the termination is to have effect, and
 - (ii) is made not less than 30 days before that date, and
 - (b) subsection (2) is complied with.
- (2) This subsection is complied with if the landlord and tenant enter into a lease constituting a modern limited duration tenancy for a term of not less than the term remaining under the limited duration tenancy which—
 - (a) comprises or includes the same land as that comprised in the tenancy being terminated under subsection (1), and
 - (b) has effect from the date on which the termination under that subsection has effect.
- (3) The landlord or tenant is entitled, at any time before the date on which the termination under subsection (1) has effect, to revoke (without penalty)—
 - (a) the agreement made under that subsection, and
 - (b) the lease mentioned in subsection (2),by giving notice in writing to the other of the revocation.
- (4) On termination of a limited duration tenancy under subsection (1), the tenant is not entitled to compensation for improvements under Part 4 (or, as the case may be, under the lease).
- (5) But any improvements for which the tenant would have been entitled to compensation under that Part but for subsection (4) are, for the purposes of that Part, to be regarded as improvements carried out during the modern limited duration tenancy.
- (6) Where a limited duration tenancy is terminated under subsection (1), section 8 does not apply in respect of the tenancy.
- (7) Section 5B does not apply to a modern limited duration tenancy created under this section.”>

Richard Lochhead

226 In section 99, page 101, leave out line 28

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Richard Lochhead

228 In the schedule, page 103, line 9, at end insert—

<1991 Act

- (1) The 1991 Act is amended as follows.
- (2) In section 21(1) (notice to quit and notice of intention to quit), leave out “2” and insert “2A”.>

Richard Lochhead

259 In the schedule, page 106, line 24, leave out <, after the definition of “limited duration tenancy” insert—> and insert <—

() for the definition of “limited duration tenancy” substitute—

““limited duration tenancy” means a tenancy—

- (a) created by virtue of section 5(1), or
- (b) converted by virtue of section 5(2), (3) or (4),

before the repeal of that section by section 74(2) of the Land Reform (Scotland) Act 2016,>

1991 Act tenancies: tenant’s right to buy where interposed lease

Michael Russell

292 In section 80, page 62, leave out line 14 and insert—

- <(b) includes a sub-tenant in a case where the tenant under the head lease is a body in relation to which the owner of the land comprised in the lease is a person with significant control.”.>

1991 Act tenancies: absolute right to buy for certain tenants

Michael Russell

293* After section 80, insert—

<Right to buy: 1991 Act tenancy held for 50 years or over

- (1) The 2003 Act is amended as follows.
- (2) After section 38, insert—

“38ZA Right to buy: tenancy held for 50 years or over

- (1) The tenant under a lease constituting a 1991 Act tenancy has a right to buy the land (or part of the land) to which the lease relates (including any interest or rights comprised in the land or part) from the owner of the land.
- (2) Subsection (1) only applies if the conditions in subsections (3) and (5) are met.
- (3) The condition is that the tenant seeking to exercise the right to buy under subsection (1) is a person mentioned in subsection (4).

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- (4) Those persons are—
 - (a) the tenant who originally entered into the lease,
 - (b) a person who was assigned the tenancy by, or who succeeded to the tenancy on the death of, that tenant, or
 - (c) a person who was assigned the tenancy by, or who succeeded to the tenancy on the death of, a person mentioned in paragraph (b).
- (5) The condition is that the tenancy has been held for a continuous period of 50 years or more by persons mentioned in subsection (4).

38ZB Procedure for buying

- (1) At least 28 days before making an offer to buy in exercise of the tenant's right to buy under section 38ZA, the tenant must give notice under this subsection to the owner that the tenant intends to exercise that right to buy.
- (2) The tenant is to make an offer to the owner at a price—
 - (a) agreed between the tenant and the owner, or
 - (b) where there is no such agreement—
 - (i) payable by the tenant in accordance with section 34(8), or
 - (ii) if the price is determined in an appeal under section 37, as is so determined,and must specify the date of entry and of payment of the price in accordance with subsection (3).
- (3) The date of entry and of payment of the price are to be—
 - (a) a date no later than 6 months from the date on which the tenant gave notice under subsection (1) of the tenant's intention to buy,
 - (b) where the price payable by the tenant is the subject of an appeal under section 37 which has not, within the period of 4 months after the date on which the tenant gave such notice, been—
 - (i) determined, or
 - (ii) abandoned following agreement between the tenant and the owner, a date not later than 2 months after the appeal is so determined or, as the case may be, abandoned, or
 - (c) such later date as may be agreed between the tenant and the owner.
- (4) The offer may include such other conditions as are necessary or expedient to secure the efficient progress and completion of the transfer.
- (5) If the tenant has not, within the period fixed by or agreed under subsection (3), done any of the things mentioned in subsection (6), the owner may apply to the Land Court for an order under subsection (7).
- (6) The things are—
 - (a) concluding missives with the owner for the sale of the land to the tenant,or

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- (b) if the tenant has not so concluded missives, taking all steps which the tenant could reasonably have taken in the time available towards so concluding missives.
- (7) An order under this subsection may—
 - (a) direct the tenant—
 - (i) to conclude missives with the seller within such period, and
 - (ii) to take such remedial action for the purpose of so concluding missives, and
 - (b) direct the tenant and owner to incorporate into the missives any term or condition in respect of the sale of the land,as the order may specify.
- (8) If—
 - (a) the tenant fails to comply with an order under subsection (7), or
 - (b) where the owner has not applied for an order under that subsection, the tenant has not (having regard to the period fixed by or agreed under subsection (3)) within a reasonable period from the acquiring by the tenant of the right to buy otherwise concluded missives with the seller for the sale of the land to the tenant,subsection (9) applies.
- (9) Where this subsection applies—
 - (a) the notice given under subsection (1) ceases to have effect, and
 - (b) no further notice under subsection (1) may be given by the tenant (or a person who is assigned the tenancy by, or who succeeded to the tenancy on the death of, the tenant) for a period of 12 months from the date on which the order under subsection (7) was made.
- (10) While a notice under subsection (1) has effect, the owner is prohibited from selling the land to any person other than the tenant.

38ZC Application of sections 33 to 37 for purposes of sections 38ZA and 38ZB

- (1) Sections 33 to 37 apply for the purposes of sections 38ZA and 38ZB as they apply for the purposes of sections 28, 29 and 32 but—
 - (a) with references to the seller being read as references to the owner, and
 - (b) with the other modifications set out in subsections (2) to (6).
- (2) In section 33—
 - (a) in subsection (1), the words “, except where subsection (2) applies,”,
 - (b) subsections (2) and (3),
 - (c) in subsection (4), the words “or (3)”,are omitted.
- (3) In section 34—
 - (a) in subsection (1), the reference to notice under section 26 is to be read as a reference to notice under section 38ZB(1),

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- (b) subsection (5) is omitted,
 - (c) in subsection (7), the words “and (5)” are omitted,
 - (d) in subsection (8), the reference to section 32(2)(b)(i) is to be read as a reference to section 38ZB(2)(b)(i).
- (4) In section 35(1), the reference to section 28 is to be read as a reference to section 38ZA.
- (5) In section 36—
- (a) in subsection (2)(b), the words “and any apportionment of a reduction in the value of the estate)” are omitted,
 - (b) in subsection (5), paragraph (b) and the word “or” immediately preceding that paragraph are omitted.
- (6) In section 37(3)(b), the reference to section 32(2)(b)(ii) is to be read as a reference to section 38ZB(2)(b)(ii).”.>

Claudia Beamish

293A*As an amendment to amendment 293, line 6, at beginning insert <Subject to subsection (6),>

Claudia Beamish

293B*As an amendment to amendment 293, line 19, at end insert—

- <(6) Notice under section 38ZB(1) may only be given within 5 years of the date on which section (*Right to buy: 1991 Act tenancy held for 50 years or over*) of the Land Reform (Scotland) Act 2016 first came into force.>

Sale where landlord in breach: tenant’s right not to proceed

Michael Russell

294 In section 81, page 66, line 34, after <time> insert <(including after a price is determined by virtue of section 38F(2) but before an offer is made on the basis of that price under section 38F(1))>

Claudia Beamish

295 In section 81, page 67, line 29, at end insert—

- <() In any case where the price is determined under subsection (2)(b), the tenant has the right to withdraw the offer within the period of 28 days following the date on which—
- (a) the tenant receives the notice sent under section 36(4), or, as the case may be,
 - (b) the appeal under section 37 is determined.>

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Agricultural holdings: minor and consequential amendments

Richard Lochhead

- 166 In section 81, page 70, line 23, at beginning insert <Except where subsection (3) applies,>

Richard Lochhead

- 203 In section 90, page 90, line 22, leave out <Part> and insert <Chapter>

Richard Lochhead

- 205 In section 90, page 91, line 11, after second <Act> insert <(as read with section 39(1) of the 1991 Act)>

Richard Lochhead

- 208 In section 90, page 91, line 14, at end insert <(as read with section 39(2) of the 1991 Act).>

Richard Lochhead

- 206 In section 90, page 91, line 16, leave out <custom or agreement> and insert <custom, agreement or otherwise>

Richard Lochhead

- 207 In section 90, page 91, leave out lines 38 and 39

Richard Lochhead

- 212 In section 96, page 97, line 16, after <49(2)> insert <(as read with section 39(3) of the 1991 Act)>

Richard Lochhead

- 251 In the schedule, page 105, line 34, leave out <created under section 5A>

Richard Lochhead

- 263 In the schedule, page 107, line 24, after <7(2)> insert <of schedule 1A>

Richard Lochhead

- 264 In the schedule, page 107, line 27, at end insert—
- <() In section 54 (compensation where compulsory acquisition of land), in subsection (6)(b)—
 - (a) for “sections 13 and 15 of that Act” substitute “paragraph 7 of schedule 1A and section 15 of that Act”,
 - (b) for “sections 9 and 10” substitute “sections 9B and 10”.>

Richard Lochhead

- 265 In the schedule, page 109, leave out line 1

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Sale where landlord in breach: restriction on notice to quit etc. where sale to third party

Rob Gibson

273 In section 81, page 72, line 37, at end insert—

<38MA Restriction on notice to quit etc. where sale to third party

- (1) This section applies where a third party buys the land comprised in the lease of a 1991 Act tenancy by virtue of an order for sale varied under section 38L.
- (2) During the period of 10 years beginning with the date the third party acquired title to the land, sections 22 to 24, 26 and 43 of the 1991 Act have effect in relation to the tenancy subject to the following modifications.
- (3) Section 22(2) has effect as if—
 - (a) paragraphs (a) and (b) were omitted,
 - (b) for paragraph (c) there were substituted—

“(c) the Land Court, on an application made—

 - (i) by a landlord who bought the land constituting the tenancy by virtue of an order for sale varied under section 38L of the Agricultural Holdings (Scotland) Act 2003 Act,
 - (ii) not more than 9 months before the giving of the notice to quit,

granted a certificate under section 26(1) that the tenant was not fulfilling the tenant’s responsibilities to farm the holding in accordance with the rules of good husbandry,” and
 - (c) for “any of paragraphs (a) to (f)” there were substituted “any of paragraphs (c) to (f)”.
- (4) Section 24(1)(e) has effect as if, for “not falling within section 22(2)(b) of this Act”, there were substituted “and, in a case where the use requires permission under the enactments relating to town and country planning, such permission has been obtained”.
- (5) Section 26 has effect as if, after subsection (1), there were inserted—

“(1A) The Land Court must not grant a certificate under subsection (1) where subsection (1B) applies.

(1B) This subsection applies where—

 - (a) the application under subsection (1) is made by a landlord who bought the land constituting the tenancy by virtue of an order for sale varied under section 38L of the Agricultural Holdings (Scotland) Act 2003 Act (the “2003 Act”), and
 - (b) the tenant’s failure to farm in accordance with the rules of good husbandry is attributable to a material breach of the former landlord’s obligations in relation to the tenant on the basis of which the Land Court made the order under section 84(1)(b) of the 2003 Act referred to in section 38A(1)(a) of that Act.”.
- (6) Section 43 has effect as if, for subsection (2), there were substituted—

“(2) Compensation is not payable under this section where—

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- (a) the notice to quit relates to land being permanent pasture which the landlord has been in the habit of letting annually for seasonal grazing or of keeping in the landlord's own occupation and which has been let to the tenant for a definite and limited period for cultivation as arable land on condition that the tenant must, along with the last or waygoing crop, sow permanent grass seeds, or
- (b) the application of section 22(1) to the notice to quit is excluded by any of paragraphs (c) to (f) of subsection (2) of that section.”.>

Sale where landlord in breach: exclusions from clawback payment after early resale

Michael Russell

167 In section 81, page 73, line 22, at end insert—

- <() the exclusion, for the purposes of subsection (2), of so much of the price at which the land is subsequently sold as is attributable to an increase in the value of the land resulting from such causes as may be specified in the regulations (which may include improvements of the kind mentioned in schedule 5 of the 1991 Act),>

Claudia Beamish

167A As an amendment to amendment 167, line 5, leave out <may> and insert <must>

Rent review of 1991 Act tenancies: rent agreement date

Richard Lochhead

168 In section 82, page 75, leave out lines 11 and 12

Richard Lochhead

169 In section 82, page 75, leave out line 18

Richard Lochhead

170 In section 82, page 76, line 23, leave out <end of the period of 14 days beginning with> and insert <day after>

Richard Lochhead

171 In section 82, page 76, line 24, leave out <such a referral is made> and insert <a referral is made to the Land Court under paragraph 6(2)>

Richard Lochhead

172 In section 82, page 76, line 35, leave out <the end of the period of 14 days beginning with>

Richard Lochhead

173 In section 82, page 77, line 5, leave out <effective> and insert <rent agreement>

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Richard Lochhead

174 In section 82, page 77, line 19, at end insert—

<New rent to take effect from rent agreement date

- 7A The rent agreed between the landlord and the tenant or, as the case may be, determined in accordance with paragraph 7 is to take effect from the rent agreement date.>

Richard Lochhead

180 In section 82, page 79, line 8, leave out <effective> and insert <rent agreement>

Richard Lochhead

183 In section 82, page 79, line 17, leave out <effective> and insert <rent agreement>

Richard Lochhead

184 In section 82, page 79, leave out line 21

Rent review of 1991 Act tenancies: powers of Tenant Farming Commissioner and Land Court

Claudia Beamish

274 In section 82, page 76, line 26, at end insert—

<Power of Tenant Farming Commissioner to make declaration and order

- (1) This paragraph applies where the landlord or the tenant of the holding makes an application to the Tenant Farming Commissioner under section 27 of the 2016 Act alleging that the way in which the rent review was carried out breached a relevant code of practice.
- (2) If the Tenant Farming Commissioner's finding, following an inquiry into the alleged breach, is that the relevant code was breached (whether in the manner alleged or otherwise), the Commissioner may—
 - (a) declare the rent review null and void,
 - (b) make an order prohibiting the landlord or the tenant (as the case may be) from initiating a further rent review under paragraph 1 during such period (not exceeding one year, beginning with the date of the order) as the Commissioner considers appropriate.
- (3) The landlord or the tenant may appeal to the Land Court against—
 - (a) a declaration under sub-paragraph (2)(a) or an order under sub-paragraph (2)(b), or both, or
 - (b) a finding by the Commissioner that the relevant code was not breached.
- (4) An appeal under sub-paragraph (3) must be made on the ground that the declaration, order or finding—
 - (a) was based on an error of fact,
 - (b) was wrong in law, or

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- (c) was unfair or unreasonable for any reason.
- (5) An appeal under subsection (3) must be made within the period of 28 days beginning with the day on which the declaration, order or finding was made.
- (6) On an appeal under subsection (3), the Land Court may—
 - (a) overturn or confirm the declaration, order or finding,
 - (b) vary the period specified in the order,
 - (c) make any declaration or order that the Commissioner could have made under sub-paragraph (2).
- (7) Nothing in this paragraph prevents the landlord or tenant making a referral under paragraph 6.
- (8) In this paragraph—
 - “the 2016 Act” means the Land Reform (Scotland) Act 2016, and
 - a “relevant code of practice” is a code of practice making provision about negotiating and conducting rent reviews published under section 25 of the 2016 Act.>

Claudia Beamish

- 135** In section 82, page 76, line 34, at end insert <and may, in so doing, invite the Court to take into account any alleged non-compliance with a relevant code of practice (as defined in paragraph 7).>

Claudia Beamish

- 136** In section 82, page 77, line 19, at end insert—
- <() In reaching a determination under this paragraph, the Land Court may take into account any non-compliance with a relevant code of practice.
 - () In deciding whether a relevant code of practice has or has not been complied with, the Land Court may seek an opinion from the Tenant Farming Commissioner.
 - () Where the Land Court decides that a relevant code of practice has not been complied with, it may make an order prohibiting the landlord or the tenant (as the case may be) from initiating a rent review under paragraph 1 during such period (not exceeding one year, beginning with the date of the order) as the Court considers appropriate.
 - () In this paragraph, a “relevant code of practice” is a code of practice making provision about negotiating and conducting rent reviews published under section 25 of the Land Reform (Scotland) Act 2016.>

Rent review of 1991 Act tenancies: procedure for regulation making powers

Richard Lochhead

- 175** In section 82, page 77, line 29, leave out <negative> and insert <affirmative>

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Richard Lochhead

- 176 In section 82, page 78, line 28, leave out <negative> and insert <affirmative>

Richard Lochhead

- 266 In the schedule, page 110, line 6, leave out <9B(3), 9C(6)>

Richard Lochhead

- 267 In the schedule, page 110, line 9, after <(4)(b),> insert <—
() after “section” insert “9B(3), 9C(6),”,
()>

Rent review of 1991 Act tenancies: power of Land Court to phase in increased rent

Richard Lochhead

- 177 In section 82, page 79, line 4, leave out from <30%> to the end of line 5 and insert <—
(a) 30% or more higher, or
(b) 30% or more lower,
than the rent currently payable in respect of the holding (the “original rent”).>

Richard Lochhead

- 178 In section 82, page 79, line 6, after <tenant> insert <or the landlord>

Richard Lochhead

- 179 In section 82, page 79, line 7, after <tenant> insert < or, as the case may be, the landlord>

Richard Lochhead

- 181 In section 82, page 79, leave out lines 11 to 13 and insert—
<(4) The rent payable in the first year after the rent agreement date is—
(a) where sub-paragraph (1)(a) applies, the sum of the original rent and one third of the difference between the new rent and the original rent, or
(b) where sub-paragraph (1)(b) applies, the original rent less one third of the difference between the original rent and the new rent.>

Richard Lochhead

- 182 In section 82, page 79, leave out lines 14 to 16 and insert—
<(5) The rent payable in the second year after the rent agreement date is—
(a) where sub-paragraph (1)(a) applies, the sum of the original rent and two thirds of the difference between the new rent and the original rent, or
(b) where sub-paragraph (1)(b) applies, the original rent less two thirds of the difference between the original rent and the new rent.>

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Retention of existing procedures for variation or review of rent

Alex Fergusson

296 Leave out section 82

Alex Fergusson

298* In section 83, page 79, line 31, leave out from beginning to end of line 32 on page 81 and insert—
<(d) the title of the section becomes “**Review of rent under limited duration tenancies, modern limited duration tenancies and repairing tenancies**”.>

Alex Fergusson

300 In the schedule, page 107, line 12, leave out paragraphs 9 to 11

Limited duration tenancies and modern limited duration tenancies: determination of initial rent

Michael Russell

297 In section 83, page 79, line 27, at end insert—

<() Before section 9 (review of rent under limited duration tenancies) insert—

“8I Determination of rent on limited duration tenancy and modern limited duration tenancy being entered into

- (1) The rent to be payable on a limited duration tenancy or a modern limited duration tenancy being entered into is to be the fair rent for the tenancy taking account of all the circumstances and having regard, in particular, to—
 - (a) the productive capacity of the land comprised in the lease,
 - (b) the open market rent of any surplus residential accommodation on the land provided by the landlord, and
 - (c) the open market rent of—
 - (i) any fixed equipment on the land provided by the landlord, or
 - (ii) any land comprised in the lease,used for a purpose that is not an agricultural purpose.
- (2) In this section, section 9B(1)(c) and section 9C(4)(a)(ii), the “open market rent” means the rent at which—
 - (a) any surplus residential accommodation, or
 - (b) any fixed equipment or land used for a purpose that is not an agricultural purpose,might reasonably be expected to be let on the open market by a willing landlord to a willing tenant.
- (3) The Scottish Ministers may by regulations make provision for the purposes of this section and section 9B about the productive capacity of land comprised in leases of limited duration tenancies or modern limited duration tenancies, including how the productive capacity of such land is to be determined.”>

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Michael Russell

299 In section 83, page 80, leave out lines 27 to 37

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