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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 366**

**LAND REFORM  
LANDLORD AND TENANT**

**The Land Reform (Scotland) Act 2016 (Consequential  
and Saving Provisions) Regulations 2016**

*Made - - - - 9th November 2016*  
*Laid before the Scottish*  
*Parliament - - - - 11th November 2016*  
*Coming into force - - 23rd December 2016*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 127(1) of the Land Reform (Scotland) Act 2016<sup>(1)</sup> and all other powers enabling them to do so.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Land Reform (Scotland) Act 2016 (Consequential and Saving Provisions) Regulations 2016 and come into force on 23rd December 2016.

(2) In these Regulations—

“the 1991 Act” means the Agricultural Holdings (Scotland) Act 1991<sup>(2)</sup>;

“the 2003 Act” means the Agricultural Holdings (Scotland) Act 2003<sup>(3)</sup>;

“agricultural holding” has the same meaning as in section 1 of the 1991 Act (meaning of “agricultural holding” and “agricultural land”);

“limited duration tenancy” has the same meaning as in section 93 of the 2003 Act (interpretation);

“relevant lease” means a lease constituting a limited duration tenancy or a lease constituting a short limited duration tenancy; and

“short limited duration tenancy” has the same meaning as in section 93 of the 2003 Act.

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<sup>(1)</sup> 2016 asp 18.

<sup>(2)</sup> 1991 c.55.

<sup>(3)</sup> 2003 asp 11.

## **The Organic Aid (Scotland) Regulations 1994**

- 2.—(1) The Organic Aid (Scotland) Regulations 1994(4) are modified as follows.
- (2) In regulation 9(7) (change of occupation), for subparagraph (b) substitute—
- “(b) the death of the original beneficiary, where that original beneficiary occupied that farm or part as a tenant and—
- (i) following the death of that original beneficiary the tenancy or lease under which he occupied that farm or part was the subject of a bequest which was declared null and void under section 12A(6)(a) or 12B(2)(a) of the Agricultural Holdings (Scotland) Act 1991(5); or
  - (ii) following the death of that original beneficiary the tenancy or lease under which he occupied that farm or part was terminated under section 12A(6)(b) or 12B(2)(b) of the Agricultural Holdings (Scotland) Act 1991.”.

## **Savings**

- 3.—(1) The modification made by regulation 2 has no effect—
- (a) in relation to a lease of an agricultural holding which is bequeathed in accordance with section 11 of the 1991 Act (bequest of lease), where the will or other testamentary writing containing the bequest was made before 23rd December 2016;
  - (b) in relation to a relevant lease which is bequeathed in accordance with section 21 of the 2003 Act (bequest of lease), where the will or other testamentary writing containing the bequest was made before 23rd December 2016(6);
  - (c) where paragraph (2) applies.
- (2) This paragraph applies where an interest of a tenant under a lease of an agricultural holding or under a relevant lease—
- (a) is comprised in the estate of a deceased person;
  - (b) that person died before 23rd December 2016; and
  - (c) at the time of that person’s death, the person had made no will or other testamentary writing containing a bequest of—
    - (i) a lease of an agricultural holding; or
    - (ii) a relevant lease.

St Andrew’s House,Edinburgh  
9th November 2016

*FERGUS EWING*  
A member of the Scottish Government

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(4) S.I. 1994/1701; there are amendments not relevant to these Regulations.

(5) Sections 12A and 12B were inserted by section 109(4) of the Land Reform (Scotland) Act 2016.

(6) Section 21 of the 2003 Act applies section 11(2) to (7) of the 1991 Act, meaning that the modifications made also affect succession to lease constituting a short limited duration tenancy or a limited duration tenancy.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for an additional modification of an enactment in consequence of the Land Reform (Scotland) Act 2016.

Regulation 2 modifies the Organic Aid (Scotland) Regulations 1994.

Regulation 3(1)(a) and (b) makes saving provision so that the modification made by regulation 2 does not apply in respect of bequests made before that modification comes into force.

Regulation 3(1)(c) and (2) makes saving provision so that the modification made by regulation 2 does not apply to the succession to an agricultural holding, a short limited duration tenancy, or a limited duration tenancy where the deceased died before 23rd December 2016 and at the time of death had not made a will or other testamentary writing which bequeathed the lease.