

Land Reform (Scotland) Bill



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Part 2 Leasing Land – Practical Summary

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Introduction

The Land Reform (Scotland) Bill (“the Bill”) was passed by the Scottish Parliament on 5 November 2025. The Bill builds on earlier Land Reform Acts and is described by the Scottish Government as “*an important step*” in Scotland’s land reform “*journey*”.

The main thrust of the Bill is to put owners of large-scale landholdings under enhanced community engagement and transparency obligations, with their ability to transact with such land restricted. The Bill also introduces significant amendments to the Agricultural Holdings legislation.

The Bill began its life as a complex piece of draft legislation and its 20-month parliamentary process has not resulted in any simplification. There are significant concerns around the practicability of several of its provisions and it is thought likely that there will be an extended period of time before any of the provisions of practical import come into force. If experience of previous Land Reform legislation is any indicator, it is possible that parts of the Bill may never come into effect. Numerous parts of the Bill require significant secondary legislation to provide the detail and therefore, again, implementation may well be delayed.

The Bill consists of two Parts:-

- Part 1 – Large Landholdings
- Part 2 – Leasing Land

To help you plan ahead, we have prepared detailed and practical summaries of the main provisions and impacts of **Part 2** of the Land Reform (Scotland) Bill for landowners and interested parties to be aware of.

If you would like to receive a copy of our **Part 1** summary, please contact a member of the Gillespie Macandrew team.

Model Leases

Environmental Purposes

Scottish Ministers are obliged, within two years of the Bill receiving Royal Assent, to publish a model lease that can be used for the letting of land wholly or partly for an environmental purpose.

An environmental purpose is defined as:

- for sustainable and regenerative agriculture,
- in a way that contributes towards achieving the net-zero emissions target set by section A1 of the Climate Change (Scotland) Act 2009
- in a way that contributes towards adaptation to climate change,
- in a way that contributes towards increasing or sustaining biodiversity.

It is not clear how a lease which allows land to be used for agriculture to any extent will interact with agricultural holdings legislation. It is understood that the model lease will be optional and it is not intended to replace any existing form of agricultural lease. The Policy Memorandum for the original Bill stated that the template was intended to be used only where less than 50% of the activity is agricultural, however the Bill does not contain any specific provision to this effect.

The Cabinet Secretary advised in Stage 2 committee proceedings that the lease would provide complete freedom of contract. She also advised that this sort of lease had been requested by parties looking for a form of agreement to assist with e.g. management of woodland owned by communities.

It is understood that the lease will be developed in consultation with stakeholders and therefore further details will become available in due course.

The relevant section is the only substantive part of the Bill which comes into force the day following Royal Assent so will be one of the first actions for the Scottish Government to progress.

Hutting

Scottish Ministers are also obliged to publish a model lease designed for the letting of **public** land for the purposes of building or occupying huts. The intention is that this is prepared within three years of Royal Assent.

Huts are defined as “simple” buildings, with internal floor area no more than 30m², constructed from low impact materials, generally not connected to services and built in such a way that it is removable with little or no trace.

The concept of hutting has its origins in the period between the two World Wars, when urban residents sought to escape from the cities at weekends or holiday periods. They are not intended as permanent residences. Agreements with landowners are required but many remaining huts or hut sites are occupied without formal arrangements being in place.

Forestry and Land Scotland have undertaken a pilot project at Carnock, Fife, providing land for a dozen huts so presumably the lease that is in use for those properties may form the basis for the model lease. The bill does not include an obligation for public landowners to use the lease or to promote hutting on their land.

Small Landholdings

Small Landholdings are a form of landholding tenure created by legislation which predated crofting legislation. In very general terms, when crofting legislation was enacted, small landholdings in crofting counties¹ became crofts and those outwith crofting counties remained as small landholdings. The legislation covering small landholdings has not been updated and progressed in the same manner as crofting legislation was (likely due to the very small numbers of holdings involved) and had been identified as being in need of modernisation.

The Bill will provide existing small landholdings with an enhanced, modernised framework, with aspects taken from both crofting and agricultural holdings legislation. Amendments at Stage 2 of the Bill sought to consolidate the existing law, introducing statutory conditions of let and provision for removal of a landholder for breach of same, statutory resumption terms, provisions on addition of dwellinghouses and reserved rights of landlords. Specific provision is also made for the creation of new small landholdings, to which the new framework will apply. New small landholdings must not be more than 20 hectares, cannot be situated in the crofting counties and can only be created in writing with specific reference to the legislation.

Significant aspects of the new regime include:

- Rent – rent may be fixed by the Land Court 7 years after a previous order/initial rent setting, or following a diversification.
- Diversification – small landholdings (or any part) will be able to be used for purposes other than cultivation. The process is very similar to that which applies to agricultural holdings (as updated by the Bill). Landlords have the right to object to a diversification but the ultimate decision rests with the Land Court.
- Assignment and Succession. Small landholders are given similar assignment and succession rights to those which apply to 1991 Act tenants.
- The provisions for compensation for improvements are extended to address a decrease or increase in the value of the holding following diversification. In the case of dispute there is provision for either party to apply the Tenant Farming Commissioner to appoint a valuer to determine the amount of compensation payable with a right of appeal to the Lands Tribunal.
- Right to Buy. Similar right to buy provisions to those which apply to 1991 Act tenants are granted to small landholders.
- Compensation for game damage – rights mirroring those being introduced for agricultural tenants are included
- Parties will generally be able to choose an alternative method of dispute resolution (such as arbitration) rather than all disputes being referred to the Land Court. Certain matters are reserved to the Land Court including questions relating to renunciation, assignment and succession and as to removal of the landholder due to breach of lease conditions or resumption.

¹ That is, the historic counties of Argyll, Caithness, Inverness, Orkney, Ross & Cromarty, Sutherland, and Zetland

Agricultural Holdings

Tenant's Right to Buy

The provisions introduced by the Land Reform (Scotland) Act 2016 (2016 Act) which removed the requirement for registration (and have not been implemented) are repealed.

Various technical amendments are made to the procedures around tenants exercising their right to buy. This includes correcting problems with the existing legislation where the right to buy is triggered by the landlord taking action with a view to a transfer, but the landlord does not notify the tenant of their right to buy. Tenants will now be able to serve notice of their intention to buy the land, but the detail of timescales for this will be left to regulations.

Following further consultation, Ministers are empowered to make regulations providing for a wide range of changes to the right to buy provisions to include the manner in which tenants notify landlords of their interest. These include the registration procedure, how applications can be challenged, rectification of the Register and inaccuracies and the expiry or cancellation of an entry in the Register. The intention is to provide a process which is not “*unduly burdensome*” and gives transparency for those transacting with land, which is to be evolved in conjunction with stakeholders and Registers of Scotland. Amendments seeking to restrict the very wide powers to modify were defeated at Stage 2.

The Tenant Farming Commissioner is empowered to provide a code of practice on the tenant's right to buy.

Assignment and Succession

Changes to assignment and succession provisions for 1991 Act and 2003 Act tenancies were introduced into the Bill at Stage 2. The changes update the wording in relation to classes of assignee and successor to mirror the phrasing of these provisions as newly introduced for small landholdings.

There is no substantive change to the identity of those who can be assigned to or succeed, nor to the procedures themselves, other than minor changes and clarifications, for example timescales for objecting to a legatee or acquirer on intestacy from “*within 1 month after the notice is given*” to “*within the period of 28 days beginning with the date on which the notice is given*”.

Resumption

Changes are made to the process for resumption and new compensation claims are introduced. These provisions were some of the most contested in the Bill, representing a significant departure from existing rules with changes being retrospective, affecting all tenancies, and introducing the concept of a capital value for 2003 Act tenancies which had not previously existed.

In recognition of concerns raised, the Bill was amended at Stage 3 to introduce regulation-making powers enabling Scottish Ministers to “change or clarify” the method for determining the new resumption compensation rights in respect of 2003 Act tenancies (only). Powers are also granted to create regulations introducing a new compensation entitlement for a 1991 Act tenant faced with an incontestable notice to quit where planning permission has been granted for the whole of the holding. This is understood to be what campaigners had initially asked for but which did not feature in the original Bill. Both regulation-making powers may only be exercised in the five years following the Bill receiving Royal Assent.

Change of Procedure – 1991 Act Tenancies

For a 1991 Act tenancy, resumption will still only be possible where a landlord has a right to resume (being a matter of contract determined by the lease). However, additional provisions are introduced to bring the process into line with 2003 Act tenancies:

- the landlord must give the tenant written notice of intention to resume, not less than one year prior to date of resumption; this is a significant increase on the current effective minimum period of two months
- the notice must be in a prescribed form and specify the date of resumption²
- within six weeks of receipt of a resumption notice, the tenant can opt to terminate the entire tenancy by giving notice in writing to the landlord

New Compensation Claim

In addition to a rent reduction and existing compensation claims, tenants of both 1991 Act and 2003 Act tenancies will also be entitled to receive a payment based on the ‘capital value’ in the lease when faced with a resumption.

A valuer must be appointed. The landlord nominates a suitable person (who must be independent of both landlord and tenant) when giving the notice of resumption. The tenant may accept that nomination or object, following which the parties can try to agree a suitable valuer failing which the Tenant Farming Commissioner should be asked to appoint. Failure to follow through with appointment of a valuer can invalidate the resumption notice.

Either party can object (on grounds of lack of independence or necessary qualifications, knowledge or experience) to an appointment by the Tenant Farming Commissioner, by application to the Land Court. The Land Court can deny the objection or appoint an alternative valuer and the Land Court’s decision is final. The valuer’s expenses are payable by the landlord, and the procedure for valuation is set out in the Bill.

The compensation figure is calculated using a process similar to that applied for claims relating to a tenant’s relinquishment of land under the 2016 Act. The capital payment is to be half the difference between the value of the land with vacant possession and with tenant in occupation. There is an appeal mechanism to the Lands Tribunal and a point of law can be referred to the Land Court. The valuer is directed to take no account of any increase or reduction in value of the land resulting from the use of, or changes to, the land for a purpose that is not one permitted by the lease. This is understood to exclude “development” or “hope” value in connection with non-agricultural uses of the land but that is not explicit and so it is hoped that clarification will be available before the provisions come into force.

Unless the tenant has served notice to terminate the tenancy, it will be possible for a landlord to withdraw the notice of resumption at any time before the intended resumption date. The landlord would be liable to reimburse the tenant for any loss or expense reasonably incurred by the tenant in reliance on the notice of resumption.

Disturbance Payment

The Bill also makes a change to the disturbance payment claim (payable on termination by notice to quit or on resumption). The change provides the tenant the right to claim for costs incurred in connection with the development of the holding e.g. professional fees incurred obtaining planning permission or building warrants, as well as professional costs relative to preparation of the claim of compensation itself. The maximum compensation sum in the absence of proof of costs remains at one year.

² A provision requiring that resumption notices be copied to the TFC was removed at Stage 2

Compensation for improvements

The Bill allows for a wider range of improvements to be compensated by substantially removing the fixed lists under Schedule 5 and introducing a new more flexible Schedule 5 comprised of three parts which set out the new improvements for which compensation may be payable:

- *Part 1* (Landlord consent required) – an improvement that makes a change to land or fixed equipment that (a) means the land or equipment is unlikely to return to its former agricultural use, or (b) otherwise has a long term or significant impact on the management of the holding.
 - The fixed list is replaced by examples, which include irrigating land, creating silvopasture and silvoarable systems and restoring peatland.
 - Tenants must give notice requesting consent to the improvement; a landlord must respond to the notice within 70 days or will be deemed to have consented to the improvement unconditionally.
 - If the parties cannot agree terms for the consent, the landlord must provide written reasons explaining the basis for their lack of consent; the tenant can apply to the Land Court to override the landlord's refusal and obtain approval to proceed
- *Part 2* (Notice is required) – an improvement that makes a change to the land or fixed equipment, but which does not have a long term or significant impact on the management of the holding as a whole.
 - The fixed list is, again, replaced by examples which include land drainage; laying down permanent pasture; re-wetting wetlands; planting or renewing shelterbelts; and creation/removal of permanent fences, dykes and gates.
 - As at present, the landlord can seek to object on receiving the notice of improvement, but the tenant will be able to seek approval of the Land Court to overturn the objection.
- *Part 3* (No requirement for consent or notice) – a fixed list of minor improvements including improving soil health; converting to organic; creating field margins to provide or improve habitats.

When considering a disputed Part 1 or Part 2 improvement, the Land Court is directed to consider whether the improvement is likely to have a positive effect on the efficient management of the holding and/or facilitate or enhance sustainable or regenerative agricultural production on the holding. It must also consider whether it is reasonable in all the circumstances for the improvement to be carried out. Certain improvements presumed to facilitate or enhance sustainable or regenerative agricultural production include re-wetting of wetlands, restoring peatland and erecting/altering/enlarging buildings facilities or structure required for the creation or storage of energy from a renewable source to be primarily used on the holding.

Diversification

The Bill introduces changes to both 1991 Act and 2003 Act tenancies extending the tenant's ability to diversify where the diversification is likely to contribute to the ability to farm sustainably and regeneratively, or have a positive effect on the environment generally.

Diversification notices should specify any environmental benefit arising from the proposed diversification and how that is to be provided.

Grounds for objection are modified. Landlords must now show that the diversification would:

- substantially prejudice the use of the whole of the tenant farmer's holding (rather than the part directly affected) for the purpose of sustainable and regenerative agriculture in the future, or
- be substantially detrimental (rather than just detrimental) to the sound management of the wider estate

Grounds of objection in relation to lessening of amenity of surrounding land and undue hardship are unchanged but there is power to change the grounds in future by regulations.

Landlords will need to provide reasons as to why their grounds for objection to, or imposition of conditions on, a diversification proposal are reasonable. If matters reach the Land Court, the Court must decide whether the landlord's objection or imposed conditions are reasonable. The Land Court is directed to evaluate the positive effects the diversification may have, on the environment generally or in facilitating or enhancing sustainable or regenerative agricultural production across the holding, against any negative effects.

As part of the diversification process a tenant will also be able to serve an "extension notice" which would pause the approval process for thirty days. This is intended to make it easier for the parties to reach agreement where possible.

Where the tenant's diversification has enhanced the value of the holding, the tenant is entitled to claim compensation from the landlord at the end of the tenancy based on its value to a hypothetical incoming tenant. Currently, such compensation is **not** payable where the land is unsuitable for use for agriculture by an incoming tenant; in future, only if the diversification has substantially prejudiced the use of the whole holding for sustainable and regenerative agriculture, will the right to compensation fall.

Compensation for damage by game

The 1991 Act is amended to enable tenants to claim compensation for a wider range of losses caused – directly or indirectly – by game (deer, pheasants, partridges and grouse) or, importantly, game management. Game management is defined as including the killing and taking of game and any steps taken or not taken by a person in connection with the exercise of a right to kill and take game.

A tenant is entitled to be compensated for damage to:

- crops grown or seeds sown for agricultural or permitted non- agricultural purposes
- trees grown for agricultural or permitted non-agricultural purposes
- fixed equipment
- livestock
- habitats

The landlord must be given reasonable opportunity to inspect the damage before harvesting, repairs or similar steps are undertaken which limit the ability to see and understand the damage (subject to considerations of preventing further suffering, injury or spread of disease, where livestock are concerned).

The provisions only apply if the tenant does not have the right to shoot game, which includes deer. Under the Deer Acts a farmer has a right to shoot deer to prevent damage to crops, pasture, enclosed woodland etc and therefore it is understood compensation would not be payable in respect of deer damage in areas where the tenant has the right to shoot.

Disputes as to entitlement to compensation or the amount payable are to be determined by the Land Court. Calls were made during the passage of the Bill for a claim procedure to be made, or for the use of arbitration, rather than leaving matters to go to Court, but no changes were made to the original Bill text.

Concerns were also raised in connection with damage from deer coming from lands other than those controlled by the landlord and whether it was reasonable for the landlord to be liable for such costs. The Cabinet Secretary noted that the [Natural Environment \(Scotland\) Bill](#) was making changes to how control of deer was dealt with and that if deer were causing problems, then addressing issues via NatureScot and their regulatory powers would be possible.

Standard Claim Procedure – Waygo

Ministers may by regulations apply a new “Standard Claim Procedure” (SCP) to any claim for compensation to which a party to a 1991 Act or 2003 Act tenancy is entitled.

The SCP requires that claims must be notified by giving a notice of claim at least nine months before the relevant date (e.g. the date of termination of the tenancy). The assessed payment must then be paid within two months of the relevant date, and interest will fall due at 1.5% above Bank of England base rate on late payments.

The notice of claim:

- provides details of the claim including type of compensation being claimed, tenancy and holding details, and information on improvements and diversifications where relevant/applicable; and
- nominates a suitable valuer, being someone independent of the parties and with appropriate qualification, knowledge and experience in connection with valuing agricultural land and compensation that may be payable to tenants and landlords of same.

If the respondent objects to the valuer and agreement cannot be reached on an alternative, then the Tenant Farming Commissioner will be requested to appoint a suitable person. Either party can object (on grounds of lack of independence or necessary qualifications, knowledge or experience) to an appointment by the Tenant Farming Commissioner, by application to the Land Court. The Land Court can deny the objection or appoint an alternative valuer and the Land Court’s decision is final. The valuer’s expenses are shared between the parties.

The valuer assesses the value of the claim, invites representations from the parties and will provide a preliminary report five months ahead of the relevant date. An updated report is issued three months before the relevant date. The valuer can enter the holding and make reasonable requests to the parties; the parties can be compelled to comply with the process by the Land Court and will be liable for the costs of any such application, which the valuer has to make.

There is scope for appeal of the final report to the Lands Tribunal, which has power to reassess and determine sums due.

Rent Review

The Bill introduces modifications to the (unimplemented) rent review procedure introduced by the 2016 Act. The provisions will affect rent reviews under 1991 Act tenancies, Limited Duration Tenancies, Modern Limited Duration Tenancies and Repairing Tenancies.

The procedure from the 2016 Act (in terms of e.g. timing, content and service of rent review notices) remains but the methodology for actually calculating the rent is updated.

The statutory procedure will require the Land Court to determine the fair rent for the holding, having regard to:

- the productive capacity of the holding,
- the open market rent of any fixed equipment provided by the landlord and used for a non-agricultural purpose,
- the open market rent of any land used for a non-agricultural purpose,
- the rent payable on comparable holdings³, and
- the prevailing economic conditions in the applicable sectors of agriculture.

The Land Court must take no account of:

³ This wording replaces the original phrasing “similar” holdings, which had raised concerns

- the amount by which the rental value has been increased by improvements undertaken at tenant's expense (which will include high farming) or at the landlord's expense if grant-aided,
- any reduction in the rental value caused by:
 - dilapidation or deterioration of, or damage to, fixed equipment or land attributable to the tenant
 - use of any part of the land for a non-agricultural purpose
 - carrying out of conservation activities on the land
- any effect on the rent of the tenant being in occupation of the holding

Ministers may by regulations make further provision in relation to the factors to be taken into account and disregarded e.g. how productive capacity is to be determined. They must consult in advance and any regulations would be subject to the affirmative procedure (that is, requiring a vote in the Scottish Parliament).

Rules of good husbandry and estate management

The Bill reforms the current rules of good estate management and good husbandry in the Agriculture (Scotland) Act 1948, changing the focus from purely efficient production.

Greater emphasis is placed on sustainable and regenerative farming, and in the case of good husbandry on the health and welfare of livestock. The [Code of Practice on Sustainable and Regenerative Agriculture](#), published in June 2025 under the [Agriculture and Rural Communities Act 2024](#), states that sustainable agriculture aims to minimise the effect of agriculture on the environment, using resources and energy efficiently.

The Scottish Ministers are also given power to prescribe activities or descriptions of activities which are to be treated as conservation activities (and therefore being in accordance with the rules of good husbandry).

Tenant Farming Commissioner

Extension of Functions

The Tenant Farming Commissioner's functions and powers as set out in the Land Reform (Scotland) Act 2016 are extended to refer to small landholdings throughout.

Codes of Practice

In connection with the Tenant Farming Commissioner obligation to prepare codes of practice providing practical guidance to agricultural tenants, landlord and their agents, the (non-exhaustive) list of proposed topics for which codes of practice may be written is updated and extended reflecting many of the topics included in the Bill. The list now includes⁴:

- negotiating rent and conducting rent reviews
- agreeing, recording and compensating improvements by tenants
- the tenant's right to buy
- the process for resuming land from a tenancy or small landholding
- the process for terminating a 1991 Act tenancy by incontestable notice to quit
- determining compensation at waygo or removal
- creating small landholdings
- converting small landholdings to crofts
- the use of land for non-agricultural purposes or for non-cultivation activities

⁴ Underlined words indicate amendments made to an existing category rather than a completely new insertion to the list

Key Takeaways – Part 2 Leasing Land

Though not on the same scale as Part 1, Part 2 of the Land Reform (Scotland) Bill requires further detail to be fleshed out by secondary legislation. It is hoped that uncertainties such as the inclusion or otherwise of development value in resumption compensation and how the model lease for environmental purposes will interact with agricultural holdings legislation, will be addressed ahead of provisions coming into force.

A brief summary of the key takeaways of Part 2 of the Bill for landowners and related parties to be aware of at this stage is below.

Implementation

It is likely to be some time before we see detail in the regulations and the relevant sections take effect. Until that time, tenancy arrangements and transactions will continue to proceed as they do at present.

Agricultural Holdings

Changes in relation to [Agricultural Holdings](#) are being made to the rules on:

- Resumption,
- Compensation for improvements
- Diversification
- Compensation for damage by game
- Rent review

There is power to make changes in future in respect of the agricultural tenant's right to buy and compensation on termination of 1991 Act tenancies.

Agricultural holdings legislation has always been complex, and these further changes add to this complexity. As so often, the devil is in the detail and much of that is yet to be determined. The changes have been summarised to the extent possible at this stage, although their impact on specific circumstances will require detailed consideration at an individual level.

Stakeholder Consultation

Stakeholder consultation will be undertaken on many parts of the Bill providing an opportunity for those who are, or may be, impacted by any area of the Bill, to make their voices heard and to try to shape the detail of the provisions.

Among others areas, consultation will be required before regulations can be brought forward on changes to the agricultural [right to buy](#), detail on [rent review](#) provisions, and any regulations brought forward to change the [resumption](#) compensation for 2003 Act tenancies or introduce compensation after incontestable notice to quit for 1991 Act tenancies.

We will continue to monitor progress on the provisions discussed and provide further updates on the Land Reform (Scotland) Bill when suitable. [View the Land Reform \(Scotland\) Bill in full](#)

If you would like to receive a copy of our Part 1 summary, or would like to discuss how these changes might affect your land or operations, please contact a member of the [Gillespie Macandrew team](#).