

# **AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### **Part 1: Agricultural Tenancies**

##### ***Section 2: Conversion from 1991 Act tenancy to limited duration tenancy***

6. This section allows for the conversion of an existing or new 1991 Act tenancy to an LDT.
7. Subsection (2) requires that the minimum length of a converted lease is 25 years (i.e. 10 years longer than the minimum length of an LDT) from the date of conversion. A 1991 Act tenancy can only be converted by the agreement of landlord and tenant. That subsection also provides that the new LDT need not necessarily comprise only the same land as the original 1991 Act tenancy. This will allow the parties to agree that additional land is incorporated into the lease in return for conversion of the existing secure tenancy to an LDT. Both the land under the original lease and the additional land can be included within a single LDT with a minimum term of 25 years.
8. Subsection (1) provides for a 30 day cooling off period for tenants and landowners after entering into an agreement to convert to an LDT. Within this period, subsection (3) allows either party to revoke the agreement to convert without penalty.
9. By virtue of subsection (4), compensation from landlord to tenant in respect of any improvements the tenant has made to the land (which can also include compensation for non-agricultural activities) will be payable on conversion, as if the tenancy had terminated (termination of an agricultural tenancy is also known as “waygo”). Subsection (5) acts to disapply the notice to quit provisions under section 21 of the 1991 Act where the parties choose to convert their 1991 Act tenancy by virtue of this section. Section 16 will apply to the new lease (see paragraphs 54 - 58).