

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

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

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

##### ***Section 9: Review of rent under limited duration tenancies***

32. This section provides an implied lease term covering rent review arrangements for LDTs where the lease contains no such provision. Subsection (1) does not prevent rent review provisions within an LDT lease which override the statutory provisions.
33. By virtue of subsection (2), these review arrangements provide for a possible rent review after at least 3 years has elapsed since either the last rent review or commencement date of the tenancy. This is a similar process to that provided for 1991 Act tenancies by section 13 of the 1991 Act. However, the arrangements are only activated if either landlord or tenant serves written notice seeking the review not less than 1 year nor more than 2 years in advance of the review date (subsection (2)(a) refers).
34. The remainder of the section explains how new rental values should be calculated. Much of this parallels the provisions in section 13 of the 1991 Act (as now amended by section 63 of the 2003 Act) which apply to 1991 Act tenancies.
35. The basic principle, by virtue of subsection (3), is that the rent should be calculated at open market value. Subsections (3) to (5) then set out factors to be disregarded and factors to be taken into account in establishing an appropriate rental value. As with the amendments to section 13 of the 1991 Act, one effect of subsection (3) is to require that the current economic conditions in the relevant sector of agriculture is taken into account in determining the rent. The changes also allow a wide range of comparable evidence.
36. Subsection (4) provides that, in calculating rent, account is to be taken of increases in the rental value of the land arising from its use for non-agricultural purposes. However, as subsections (5) and (6) stipulate, no account is to be taken of increases in the rental value of the land arising from improvements paid for by the tenant (unless they are required by the lease), or improvements paid for by the landlord but supported by grant or the development of a superior system of farming. These provisions are similar to section 13(5) and (6) of the 1991 Act.
37. Subsection (7) sets out that rent should not be reduced to take account of any deterioration to the land or fixed equipment (as section 13(7) of the 1991 Act provides) or any reduction in the rental value of the land resulting from its use for non-agricultural or conservation purposes.
38. Subsection (8) provides that any change in rent takes effect from the review date.

*These notes relate to the Agricultural Holdings (Scotland) Act  
2003 (asp 11) which received Royal Assent on 17 April 2003*

39. Sections 10 and 11 of the 2003 Act also provide for the variation of rent in defined instances.