

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 3: Use of Agricultural Land: Diversification

Section 39: Use of land for non-agricultural purposes

120. This section provides the basis for tenants under a 1991 Act tenancy or LDT to use the land for non-agricultural purposes, provided (as subsection (4) makes clear) that the notice procedure in section 40 is adhered to. The meaning of "non-agricultural" can be found in section 93 (interpretation).
121. Subsection (1) provides that, once such an agricultural tenancy has been entered into, the use of the land for a non-agricultural purpose shall not of itself cause the tenancy to cease to be a tenancy of agricultural land subject to the 1991 or 2003 Acts. Subsection 2 provides that this provision over-rides any term within a lease constituting a 1991 Act tenancy or LDT that purports to prohibit diversification.
122. Subsection (3) allows land to be sublet for a purpose ancillary to the tenant's diversification (e.g. a bed and breakfast or serviced holiday home business, where the tenant is providing a service and not simply subletting land or buildings) notwithstanding any provision in the lease to the contrary. Subsection (5) stipulates that the diversification provisions can apply to all or part of the land.