

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 4: Compensation under Agricultural Tenancies

Section 55: Right to compensation for yielding vacant possession

179. This section applies to 1991 Act tenancies and to former such tenancies which, by virtue of section 2 of the 2003 Act, have been converted to LDTs. Its effect is to provide for compensation arrangements that a landlord and tenant may enter into by agreement where either the landlord wishes to sell the tenanted land with vacant possession or the tenant wishes to quit the land.
180. Subsections (2) and (3) apply where the landlord wishes to sell the tenanted land. In such cases, the landlord and tenant may enter into an agreement whereby the tenant quits the land in return for compensation calculated according to the formula set out in subsection (3). These provisions set out arrangements which affect landlord and tenant only if entered into voluntarily by both parties. They do not affect the security of tenure to which the tenant is entitled. The landlord cannot compel the tenant to quit the land under any of the provisions of this section. Nor can either party compel the other to enter into an agreement under any of the provisions of this section.
181. Subsections (4) and (5) apply where the tenant wishes to quit the land. In such cases, the landlord and tenant may enter into an agreement whereby the tenant quits the land and the landlord pays to that tenant compensation calculated according to the formula set out in subsection (5). These provisions set out arrangements which affect landlord and tenant only if entered into voluntarily by both parties. The landlord is not obliged, unless voluntarily entering into such an agreement, to pay such (or indeed, any) compensation under these provisions. Nor may a landlord oblige a tenant to quit the land by offering to pay compensation to the tenant on the basis of this formula. These provisions do not affect a landlord's obligation to pay compensation under any other provision of the 1991 Act.
182. Subsection (6) stipulates arrangements for the appointment of the valuer, while subsections (7) and (8) set out factors to be taken into account as part of the valuation of land and compensation payable.