

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 4: Compensation under Agricultural Tenancies

Section 57: Provision as to parts of land and divided land

184. This section makes similar provision in respect of SLDTs and LDTs as do sections 49(3) and (4) and 50 of the 1991 Act in respect of 1991 Act tenancies.
185. The effect of subsections (1) and (2) is to remove non-agricultural land held under an SLDT or LDT from consideration when calculating compensation payable under this Part of the 2003 Act. The meaning of what constitutes non-agricultural land in subsection (2) differs from the corresponding meaning in section 49(4) of the 1991 Act in respect of 1991 Act tenancies, in that subsection (2) requires consideration to be given to whether the land would have been capable of being let as an agricultural tenancy at the point when the tenancy commenced (rather than at the point when compensation is due to be paid). The effect of this distinction is that land used by the tenant of an SLDT or LDT for a diversified non-agricultural purpose is not caught by subsection (2), and so remains eligible to be taken into account in assessing compensation under Part 4 of the 2003 Act.
186. Subsection (3) provides that, where the landlord's interest in the land is divided between two or more interests and the rent payable under the lease has not been apportioned with the tenant's consent or under any statutory provision, then the tenant may require that any compensation payable to the tenant under Part 4 of the 2003 Act be paid as if the land had not been divided. Subsection (4) empowers the Land Court to determine how compensation payable to a tenant is to be apportioned between those persons who, together, constitute the landlord. The Court may also determine how any additional expenses of the apportionment application are to be apportioned between those people.