

LAND REFORM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 – Agricultural Holdings

Chapter 1 – Modern Limited Duration Tenancies

Modern limited duration tenancies

Section 88 – Modern limited duration tenancies: fixed equipment

422. **Section 88** amends the 2003 Act by inserting a new section 16A after section 16 (leases not terminated by variation of terms, etc). Section 16A provides for the regulation of fixed equipment in relation to MLDTs. Subsection (1) requires a landlord, within six months of the lease starting, to provide such fixed equipment to enable the tenant to maintain efficient agricultural production for the land as specified by the terms of the lease, and to put the fixed equipment present on the holding into the condition specified in the schedule of fixed equipment. Subsection (2) specifies the information to be provided in the schedule of fixed equipment. Subsection (3) requires that the schedule of fixed equipment must be agreed within 90 days of the tenancy starting and subsection (4) enables the schedule to be varied or substituted if both parties are in agreement.
423. Subsection (5) incorporates a default term into every lease for an MLDT, in the absence of express provision to the contrary, that a landlord is required to renew or replace the fixed equipment as necessary due to natural decay or fair wear and tear. It also confirms that the tenant's liability for fixed equipment extends only to the condition the equipment was in at the time of the completion of the schedule of fixed equipment or to its condition following any improvement, provision, renewal or replacement during the tenancy.
424. Subsection (6) sets out that costs associated with compiling the schedule must be covered equally by the landlord and the tenant, unless agreed otherwise.
425. Subsection (7) states that any agreement which requires the tenant to accept the expense of works that a landlord is required to execute to fulfil a landlord's own obligations will have no effect.
426. Subsection (8) provides that any MLDT lease requiring a tenant to pay all or part of a premium for fire insurance for fixed equipment will be of no effect.