

LAND REFORM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 – Agricultural Holdings

Chapter 10 – Diversification

Section 121 – Use of land for non-agricultural purposes: objection to notice of diversification

754. **Section 121** amends section 40 of the 2003 Act on diversification – that is, non-agricultural use – of 1991 Act tenancies, LDTs, MLDTs and repairing tenancies (and section 39 of the 2003 Act is amended by schedule 2 of the Act to insert reference to MLDTs and repairing tenancies). New subsection (5A) of section 40 (as inserted by section 121(2)(b) of the Act) provides that where the landlord objects to the tenant's notice of diversification, the land may only be used according to the purpose specified in the notice if the landlord withdraws the objection, does not go to Land Court for the objection to be upheld under new section 40A, or the Land Court has determined that the objection is unreasonable under section 41 of the 2003 Act. New subsection (5A) also provides that in these circumstances the use of the land by the tenant is subject to any reasonable conditions imposed by the landlord or, as the case may be, the Land Court.
755. New subsection (5B), as inserted by section 121(2)(b) of the Act, makes provision for the date when the diversified use can begin. New subsection (14), as inserted by section 121(2)(c), provides that where the landlord withdraws the objection before the landlord's window for proceeding to the Land Court under section 40A has expired, then the landlord must notify the tenant in writing of the withdrawal, but can impose reasonable conditions at that point in relation to the use of the land for the non-agricultural purpose.
756. New section 40A, inserted by section 121(3) of the Act, provides that where the landlord gives notice of an objection under section 40(11)(a) of the 2003 Act, the landlord may apply to the Land Court within 60 days of the giving of the notice of the objection for a determination that it is reasonable. The objection ceases to have effect if the landlord does not apply to the Land Court in this way or if the notice of objection is withdrawn within 60 days of the notice of objection being given.

Section 122 – Use of land for non-agricultural purposes: requests for information

757. **Section 122** amends section 40 of the 2003 Act separately to provide that where the landlord has made a request for information about the intended new non-agricultural use of the land, or the finance or management of the business, or other relevant information as specified in section 40(9)(a)(i) to (iii) of the 2003 Act, the new non-agricultural use may begin 70 days from the date the landlord requests that information. Under subsection (6) of section 40, as amended by section 122(2)(b) of the Act, the landlord has 30 days (from the date the tenant gave the notice of diversification to the landlord) to make a single request for the information.