

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 1: Agricultural Tenancies

Section 1: Application of the 1991 Act to agricultural holdings

3. Subsections (1) and (2) provide that parties will in future continue to be able to enter into leases that are subject to the provisions of the [Agricultural Holdings \(Scotland\) Act 1991 \(c.55\)](#) (“the 1991 Act”), rather than the provisions in sections 4 and 5 of the 2003 Act which introduce new forms of tenancy, the short limited duration tenancy (“SLDT”) and limited duration tenancy (“LDT”) respectively.
4. However, as subsection (2) provides, the 1991 Act provisions will only apply to those tenancies entered into where a written lease is agreed before the tenancy commences which expressly states that these provisions should apply to the tenancy. Subsection (4) provides that such a lease or a lease subject to the 1991 Act entered into before the 2003 Act applied (that is not a lease for less than year to year) is described as a “1991 Act tenancy” for the purposes of the 2003 Act. The description “1991 Act tenancy” is also used in these Notes.
5. Subsection (3) repeals section 2 of the 1991 Act. The effects are that no lease shall in future convert to a lease from year to year under the 1991 Act and there is no future requirement for the power previously available to Scottish Ministers to approve that a let of less than one year’s term should not take effect as if it were a 1991 Act tenancy. Section 3 of the 2003 Act provides for a lease of less than one year for grazing or mowing (see paragraphs 10 and 11 below).