

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 1: Agricultural Tenancies

Section 16: Fixed equipment

54. The effect of this section is to provide for the respective rights and responsibilities of landlord and tenant in relation to the maintenance, replacement and in certain cases provision of fixed equipment on land comprised in SLDTs and LDTs. Section 5 of the 1991 Act (as amended by section 60 of the 2003 Act) makes similar provision for 1991 Act tenancies.
55. The definition of fixed equipment is set out in section 93 of the 2003 Act, while the definition of “produce” is set out in section 16(4) of the 2003 Act. Both definitions follow those used in section 85 of the 1991 Act (section 85 of that Act refers).
56. Subsections (1) and (2) provide that any fixed equipment on the land is to be specified in the lease, and that landlord and tenant may adjust that specification in writing at any time during the term of the lease.
57. Subsection (3) sets out for LDTs and SLDTs the landlord’s liability for providing and maintaining fixed equipment both at the start of and during the term of the tenancy, while subsection (5) restricts the liability of the tenant for maintaining fixed equipment. These provisions have similar effect to section 5(2) of the 1991 Act, which applies to 1991 Act tenancies.
58. Subsection (6) prevents landlord and tenant from entering into an agreement under which the tenant would bear the cost of meeting the landlord’s responsibilities under this section. Section 5(4D) of the 1991 Act (as introduced by section 60 of the 2003 Act) makes similar provision for 1991 Act tenancies. Subsection (7) stipulates that any term in an SLDT or LDT lease that requires the tenant to pay part or all of a premium due under a fire insurance policy for fixed equipment on the land is of no effect.