

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 2: Tenant's Right to Buy Land

Section 25: Registration of tenant's interest

79. [Section 25](#) sets out the process for registering an interest in acquiring the land comprised in the lease and explains the duties of the tenant, the landowner and the Keeper. There is nothing in the 2003 Act that will prevent a landlord from selling tenanted land to that tenant voluntarily. However, the statutory right to buy procedure protects the position of those tenants who have registered an interest in acquiring the land comprised in the lease.
80. Subsections (1) and (4) require tenants who wish to register an interest in acquiring the land comprised in the lease to send a notice of interest to the Keeper, to copy that notice to the owner of the land and to notify the Keeper that a copy of the notice has been sent to the owner. Subsection (1) provides that the right to register an interest in acquiring the land comprised in the lease applies to tenants under a 1991 Act tenancy (cf. section 72(2), which allows general partners within a limited partnership, where the partnership is the tenant in a 1991 Act tenancy, to exercise the rights of a tenant) . The effect of subsection (2) is that where there are two or more tenants under a lease then those tenants may together apply to register an interest (where both or all tenants so agree), while a sub-tenant under a lease may not apply to do so. Subsection (3) sets out the information to be specified in the notice. Scottish Ministers specify the form of the notice in regulations.
81. Subsection (5) sets out the information that the Keeper must register and requires the Keeper to send an extract of the registration to each of the tenant and the owner of the land. The Keeper may charge a reasonable fee for registering a tenant's interest and for providing an extract or copy extract of registration by virtue of subsection (7). If there is a standard security over the land in question, the owner must tell the tenant about that security and send a copy of the extract to the creditor in the standard security (subsection (6) refers).
82. Subsection (8) confers on the owner of the land the right to challenge the registration of the tenant's interest where any matter contained in the extract registration is inaccurate by giving notice in writing to the Keeper. On receipt of a notice under subsection (8) the Keeper is to make such enquiry as the Keeper thinks fit. If there is an inaccuracy the Keeper must rescind the registration of the tenant's interest if the inaccuracy is material, or amend the registration of the tenant's interest if the accuracy is not material (see subsection (9)). Where the registration of the tenant's interest is rescinded subsection (10) requires the Keeper to intimate that fact to each of the tenant and the owner of the land. Where the registration of the tenant's interest is amended, subsection (10) requires the Keeper to send an extract of the amended registration to

*These notes relate to the Agricultural Holdings (Scotland) Act
2003 (asp 11) which received Royal Assent on 17 April 2003*

both the tenant and the owner of the land. Subsection (11) confers upon both the tenant and the owner of the land the right to appeal to the Land Court any decision of the Keeper made following notice to the Keeper under subsection (8).

83. Subsection (12) limits the effect of registration of a tenant's interest in acquiring land so that it has effect only in relation to land that remains comprised in the tenancy. It also provides that registration of a tenant's interest ceases to have effect upon a registration being rescinded, the tenancy being terminated or the expiry of five years from the date of registration, whichever is the sooner. Responsibility for informing the Keeper where the tenancy is terminated or there is a reduction in the land comprised in the tenancy within that five year period rests with the landlord (see subsection (13)). Subsection (14) permits a tenant to renew registration of the interest in acquiring the land comprised in the lease. Subsection (15) requires the Keeper to remove from the register any registration of interest which no longer has effect.