

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 2: Tenant's Right to Buy Land

Section 28: Right to buy

88. Subsection (1)(a) applies where a tenant's interest in acquiring the land comprised in the lease is for the time being registered under section 25 (i.e. the interest has been registered, has not ceased to have effect by virtue of section 25(12)(b) of the 2003 Act, and only in so far as that registered interest continues to have effect by virtue of section 25(12)(a) of the 2003 Act). In such cases, the giving of notice to that tenant under section 26 confers upon that tenant the right to buy the land to which the transfer relates (i.e. if only part of the land in respect of which the tenant has registered an interest in acquiring is to be transferred then the right to buy can apply to that portion of the land, but not to land that is not to be transferred). Subsection (1)(b) provides that where such notice should have, but has not, been given under section 26, the taking of certain actions with a view to transferring that land or any part of it by the owner or creditor in a standard security also confers upon that tenant the right to buy the land to which the transfer relates. The particular actions that will trigger these consequences are set out in subsections (3) and (4), which the Scottish Ministers may modify by Order using the power conferred by subsection (5). Where the right to buy is conferred upon a tenant by virtue of subsection (1) but the transfer of the land to a person other than that tenant proceeds nonetheless, then, in that event, the tenant has the right to buy that land from the person to whom that land is transferred or from any person to whom it is subsequently transferred (see subsection (2)).