

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 4: Compensation under Agricultural Tenancies

Section 59: Extent to which compensation recoverable under agreements

188. This section makes similar provision in respect of SLDTs and LDTs as does section 53 of the 1991 Act in respect of 1991 Act tenancies.
189. Subsection (1) provides that, unless there is any express provision to the contrary in Part 4, where a landlord or tenant of an SLDT or LDT is entitled to compensation under any provision of Part 4 they are entitled to such compensation by virtue of that provision alone and notwithstanding any term of any agreement between them (whether to increase, reduce or not pay the compensation).
190. Subsection (2) provides that where the landlord and tenant agree in writing a variation of the terms of the lease as may be made by a direction by virtue of section 15 (permanent pasture) then they may also, in that written agreement, provide for the exclusion of compensation on the same basis as it is excluded under section 58(1).
191. By virtue of subsection (3), in a case where Part 4 makes no provision for compensation then any claim by a landlord or tenant of an SLDT or LDT is not enforceable unless it is made under a written agreement. This includes compensation payable to a landlord for any dilapidations caused to the land by the tenant.