

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 5: Miscellaneous Amendments to the 1991 Act

Section 60: Agreements as to fixed equipment

192. This section amends section 5 of the 1991 Act, which sets out the respective responsibilities of landlord and tenant under a 1991 Act tenancy relating to the provision, maintenance and renewal of fixed equipment, including buildings.
193. Section 5(3) of the 1991 Act is repealed. Consequently, a landlord and tenant can no longer enter into an agreement altering their respective responsibilities in relation to fixed equipment.
194. New subsections (4A) to (4C) inserted into section 5 of the 1991 Act apply to agreements already made by virtue of section 5(3). Subsections (4A) and (4C) set out the general principle, that such agreements continue to be of effect but can be nullified if subsection (4B) is complied with. Subsection (4B) is complied with if, following a review of the rent under section 13 of the 1991 Act the tenant gives notice to the landlord that the agreement is to be nullified from a date specified by the tenant and, on the date on which the agreement is to be nullified, the buildings and other fixed equipment are either in a reasonable state of repair or (if they were in an unreasonable state of repair when the agreement was entered into) are not in a worse state of repair than they were when the agreement was entered into.
195. Subsection (4D) provides that any new agreement made between landlord and tenant which purports to provide for the tenant to bear any expense arising from work for which the landlord is responsible under the lease is of no effect.