

# **AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### **Part 5: Miscellaneous Amendments to the 1991 Act**

##### ***Section 62: Interdict in certain cases***

200. This section amends section 7 of the 1991 Act, which confers upon the tenant, subject to the obligations under section 7(3) and the restrictions set out in section 7(5) of the 1991 Act, the right to dispose of the produce of the holding (other than manure) and to practise any system of cropping of the arable land on the holding notwithstanding any custom, or any provision of the lease or of any other agreement. Section 7(3) provides that the landlord's only remedies in respect of injury or damage which has occurred, or is likely to occur, to the holding are interdict or damages payable by the tenant when the tenant quits the holding on the termination of the tenancy. These remain the only remedies by virtue of the wording of newly inserted subsection (3A). New subsection (3A) also provides that those remedies may now be obtained only in the Land Court.
201. The question as to whether the tenant, in exercising the rights under section 7(1) of the 1991 Act, has or is likely to injure or cause deterioration to the holding may be determined either by the Land Court or, where both parties agree, by an arbiter (by virtue of new sections 60 and 61(1) of the 1991 Act (substituted by sections 75 and 76 of the 2003 Act respectively)). Where the question is determined by an arbiter then, in any interdict proceedings brought under section 7(3)(a) of the 1991 Act, then new subsection (4) provides that a certificate of the arbiter as to the decision in the arbitration is conclusive proof of the facts set out in the certificate.