

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 5: Miscellaneous Amendments to the 1991 Act

Section 66: Assignment and subletting of tenancy

219. This section inserts new section 10A into the 1991 Act. Section 10A(1) enables a tenant under a 1991 Act tenancy to assign, with the landlord's consent, their interest in the tenancy to a person who would be entitled to succeed to that tenant's estate on intestacy under the Succession (Scotland) Act 1964, notwithstanding any term of the lease to the contrary (see section 10A(5)). Section 10A(2) provides that the tenant must give to the landlord written notice of the intention to assign, specifying details of the proposed assignee, the terms of the proposed assignment, including the date from which it is to take effect.
220. Section 10A(3) confers upon the landlord the right to withhold consent on reasonable grounds and sets out a non-exhaustive list of grounds on which consent could reasonably be withheld.
221. Section 10A(4) provides that where the landlord withholds consent that fact, along with a note of the grounds on which consent is withheld, must be intimated to the tenant within 30 days of the giving of notice by the tenant under section 10A(2). If no such intimation is made then the landlord is deemed to consent to the assignment. In the event that the landlord does withhold consent and the tenant does not accept the grounds for such withholding of consent, then it is open to the tenant to apply to refer the matter to the Land Court for resolution under new section 60 of the 1991 Act (inserted by section 75).