

LAND REFORM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 – Agricultural Holdings

Chapter 6 – Assignment of and Succession to Agricultural Tenancies

Assignment

Section 105 – Assignment of modern limited duration tenancies

602. **Section 105** amends the 2003 Act by making provision for the assignment of MLDTs, inserting a new section 7B into the 2003 Act.
603. Subsection (1) of the inserted section 7B provides for an assignment of an MLDT tenancy if the landlord provides consent after receiving written notice from the tenant.
604. Subsection (2) provides that the tenant must provide the landlord with written notice of intention to assign an MLDT. The notice must contain details of the proposed assignee, the terms of the assignment and the date from which it is to take effect.
605. Subsections (3) and (4) provide that if the proposed assignee is not a near relative, then the landlord can withhold consent on any reasonable grounds. If the proposed assignee is a near relative then the landlord's grounds for objection are limited to three circumstances. These are the following: that the person is not of good character, that the person does not have sufficient resources to enable the person to farm the holding efficiently, and that the person does not have adequate training or expertise in agriculture to enable the person to farm with reasonable efficiency.
606. Subsection (5) provides that this last ground of objection does not apply where the person is engaged or intending to enrol, within a specified period, in a course of relevant agricultural training that must be completed within four years. The person is also required to have made arrangements for the holding to be farmed efficiently while the person completes the course.
607. Subsection (6) requires the landlord to give written notice to the tenant indicating withholding of consent within 30 days of receiving the tenant's notice of intention to assign. If no such notice is provided by the landlord, it is taken that consent has been given.
608. Subsection (7) defines "good husbandry" by reference to schedule 6 of the Agriculture (Scotland) Act 1948.
609. Subsection (8) defines "near relative" of the tenant for the purposes of subsection (4).