These documents relate to the Agricultural Holdings (Scotland) Bill (SP Bill 62) as introduced in the Scottish Parliament on 16 September 2002

AGRICULTURAL HOLDINGS (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Agricultural Holdings (Scotland) Bill introduced in the Scottish Parliament on 16 September 2002:
   
   - Explanatory Notes;
   - a Financial Memorandum;
   - an Executive Statement on legislative competence; and
   - the Presiding Officer’s Statement on legislative competence.

   A Policy Memorandum is printed separately as SP Bill 62–PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Executive in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

PART 1: AGRICULTURAL TENANCIES

Section 1: Application of the 1991 Act to agricultural holdings

4. Subsections (1) and (2) enable parties in future to enter into leases that are subject to the provisions of the Agricultural Holdings (Scotland) Act 1991 (hereafter called “the 1991 Act”) (rather than a short limited duration tenancy (“SLDT”) or limited duration tenancy (“LDT”)). However, as subsection (2) makes clear, the 1991 Act provisions will only apply to those tenancies where the lease is agreed before the tenancy commences and expressly states that these provisions should apply to the tenancy. SLDTs and LDTs are new types of tenancy, introduced by sections 4 and 5 of the Bill respectively. Subsection (4) provides that, for the purposes of the Bill, a lease subject to the 1991 Act that is not a lease for less than year to year is described as a “1991 Act tenancy”.

5. Subsection (3) repeals section 2 of the 1991 Act. The effect is that no lease shall in future convert to a lease from year to year under the 1991 Act. Where parties enter into a lease of less than one year for grazing or mowing under section 3 of the Bill, the tenancy will nonetheless be deemed to be a SLDT if its duration exceeds 364 days (see paragraph 8 below). This includes grazing or mowing lets in existence on commencement of this section. In future, there will be no equivalent to the existing requirement for approval by Scottish Ministers to the continuation of a grazing or mowing let for a period of more than 364 days.

Section 2: Conversion from 1991 Act tenancy to limited duration tenancy

6. This section allows for the conversion of an existing or new tenancy under the 1991 Act (also known as a “1991 Act tenancy”) to a LDT. Parties would have entered voluntarily into a 1991 Act tenancy, knowing the security of tenure it bestows. In recognition of the fact that such ongoing security of tenure will no longer be available after conversion, subsection (2) requires that the minimum length of a converted lease is 25 years (i.e. 10 years longer than a standard LDT) from the date of conversion. A 1991 Act tenancy can only be converted by the agreement of landlord and tenant.

7. By virtue of subsection (3), compensation from landlord to tenant in respect of any improvements the tenant has made to the land will be payable on conversion, as if the tenancy had terminated (also known as “waygo”). Subsection (4) acts to disapply the notice to quit
provisions under section 21 of the 1991 Act where the parties choose to convert their 1991 Act
tenancy by virtue of this section.

Section 3: Leases for grazing or mowing

8. This section builds on section 1(3) of the Bill. It enables parties to agree leases for
grazing or mowing, for periods of up to 364 days. Such leases are not subject to the same
statutory requirements as other statutory leases.

9. Subsection (2) provides that a period of at least one day is required between successive
grazing and mowing lets involving the same parties.

Section 4: Short limited duration tenancies

10. Subsection (1) stipulates that, where land is let to a tenant for a period of not more than 5
years and the lease is neither a 1991 Act tenancy nor a grazing or mowing let, that tenancy is to
be a SLDT.

11. Subsection (2) converts grazing or mowing lets to SLDTs, where the tenant continues to
occupy the land after expiry of the term of the let with the consent of the landlord.

12. Subsection (3) provides that, where parties agree a SLDT of less than 5 years, then the
continued occupation of the tenant after the expiry of the term with the landlord’s consent shall
result in the term of the SLDT being deemed to be extended to 5 years, unless landlord and
tenant agree to a term of less than 5 years.

13. Subsections (4) and (5) treat any new SLDT that is entered into less than one year after a
SLDT involving the same parties and the same land expires to be an extension of that earlier
SLDT. The effect of this is that, if the two SLDT periods combined exceed 5 years then, by
virtue of section 5(3), a LDT is deemed to have been constituted.

Section 5: Limited duration tenancies

14. Subsection (1) defines a LDT as an agricultural tenancy (other than a 1991 Act tenancy)
of at least 15 years duration. Any such lease of more than 5 years becomes a LDT, with a
minimum length of 15 years - see subsection (4).

15. Subsection (2) converts SLDTs to LDTs where the tenant continues to occupy the land
after expiry of the term of the let with the consent of the landlord. Consent may for these
purposes be formal or implied (e.g. the landlord continues to accept rent from the tenant).

16. Subsection (3) works with section 4(5) of the Bill, so that SLDTs purporting to be of a
duration exceeding 5 years are deemed to be LDTs of 15 years.
Section 6: Assignation, subletting and termination of short limited duration tenancies

17. Subsection (1) prevents the tenant of land subject to a SLDT from either assigning the lease or sub-letting the land. However, as subsection (2) provides, landlord and tenant can agree to terminate a SLDT prematurely. Sections 7 and 8 set out the corresponding provisions to apply to LDTs, the effects of which are quite different. The Bill does not require a notice to quit procedure for SLDTs.

Section 7: Assignation and subletting of limited duration tenancies

18. This section sets out a procedure which enables a tenant to assign a LDT. The tenant may assign the interest back to the landlord rather than terminate under section 8.

19. Subsection (1) provides that the tenant requires the consent of the landlord to an assignation, while subsection (2) sets out the process by which the tenant should seek this consent. As subsection (4) makes clear, silence on the part of the landlord is deemed to be consent. However, the landlord may withhold consent – subsection (3) provides non-exhaustive grounds for objection.

20. Subsection (5) allows the landlord to override a proposed assignation of the tenant’s interest to a third party by acquiring the tenancy on terms no less than those offered by the assignee.

21. Subsection (6) stipulates that a tenant under a LDT may sub-let the land let, but only if and insofar as this is provided for in the lease.

Section 8: Continuation and termination of limited duration tenancies

22. The section sets out the notice to quit procedures that are to apply to LDTs. Tenancies will continue to have effect where these procedures are not complied with.

23. Subsection (1) enables a landlord and tenant to terminate a LDT early by agreement reached after the lease has commenced.

24. Subsections (2) to (6) and (13) act together to require the landlord to serve two notices on the tenant. The first is a notice of intention to terminate the tenancy (subsection (6) refers), to be served no more than 3 years nor less than 2 years before the term of the tenancy is due to expire. The landlord must then serve final notice to quit under subsection (4) no more than 2 years nor less than one year before the term of the tenancy is due to expire (see subsection (5)). At least 90 days must separate the two notices.

25. Subsection (7) sets out that, where these requirements are not complied with, the tenancy will extend for a first short continuation period of 3 years. If, in this period, the same notice to quit requirements are not complied with, then the tenancy will extend again for a second short continuation period of 3 years (subsections (7) and (8) refer).
26. A different notice to quit procedure applies during the second short continuation period, as subsections (9) to (11) set out. Failure to comply with it will result in a long continuation of the lease (as defined by subsection (7)) for a further 15 years. In this instance, the service of preliminary notice to quit is not required and final notice to quit can be served at any time during the second short continuation period. As subsection (11) states, where notice to quit is served, the termination date is the latter of the final day of the second short continuation period and the date two years after notice to quit is given.

27. Where leases extend into a long continuation period, subsection (12) stipulates that the notice to quit requirements are the same as if it were a new LDT. So the service of both preliminary and final notice to quit is required before the lease can be terminated after a 15 year extension.

28. A landlord and tenant will be able to extend the term of a LDT by agreement for any duration. This is provided for at subsection (14).

Section 9: Review of rent under limited duration tenancies

29. This section provides an implied lease term covering rent review arrangements for LDTs where the lease contains no such provision. Subsection (1) does not prevent rent review provisions within a LDT lease.

30. By virtue of subsection (2), these review arrangements provide for a possible rent review after at least 3 years has elapsed since either the last rent review or commencement date of the tenancy. This is essentially the same process as is provided for 1991 Act tenancies by virtue of section 13 of that Act. However, the arrangements are only activated if either landlord or tenant serves written notice seeking the review not less than 1 year nor more than 2 years in advance of the review date (subsection (3) refers).

31. The remainder of the section explains how new rental values should be calculated. Much of this parallels existing provisions in section 13 of the 1991 Act which apply to 1991 Act tenancies.

32. The basic principle, by virtue of paragraph (3), is that the rent should be calculated at open market value. Subsection (4) sets out factors to be taken into account in establishing an appropriate rental value where there is insufficient information available to determine the market value of the tenancy, in a way similar to section 13(4) of the 1991 Act.

33. Subsection (5) provides that, in calculating rent, account is to be taken of increases in the rental value of the land arising from its use for non-agricultural purposes only. However, as subsections (6) and (7) stipulate, no account is to be taken of increases in the rental value of the land arising from improvements paid for by the tenant, improvements paid for by the landlord but supported by grant or the development of a superior system of farming. This parallels section 13(5) and (6) of the 1991 Act.
34. Subsection (8) sets out that rent should not be reduced to take account of any deterioration to the land or fixed equipment (as section 13(7) of the 1991 Act provides) or any reduction in the rental value of the land resulting from its use for non-agricultural or conservation purposes.

35. Subsection (9) provides that any change in rent takes effect from the review date.

36. Sections 10 and 11 also provide for the variation of rent in defined instances.

Section 10: Increase in rent: landlord’s improvements

37. This section provides for LDTs the equivalent to section 15 of the 1991 Act, which applies to 1991 Act tenancies. It allows for the increase of rent for a LDT at any time (notwithstanding the standard rent review procedures set out in the previous section), arising from certain improvements made to the land by the landlord, provided the landlord serves notice of increase in rent within 6 months of the completion of the improvement. By virtue of subsection (3), the increase in rent should be reduced where the improvement has attracted grant support to the landlord.

Section 11: Variation of rent by the Land Court

38. This section parallels section 14 of the 1991 Act. It provides a power for the Land Court to vary rent for a LDT in disputes arising in relation to the terms of a lease or fixed equipment.

Section 12: Written leases and the revision of certain leases

39. The Bill does not require that SLDTs or LDTs be entered into in writing (although section 1 of the Registration of Leases (Scotland) Act 1857 requires that long leases (i.e. those for terms exceeding 20 years) require to be entered into in writing and registered in the property registers). This section provides for LDTs and SLDTs the equivalent of section 4 of the 1991 Act in relation to 1991 Act tenancies. Subsection (1) provides landlords and tenants with the scope to produce or enlarge a lease in writing, where a written lease is either not in force or incomplete. Subsection (2) pinpoints the nature of the matters in respect of which a lease can be written or enlarged under subsection (1).

40. By virtue of subsection (3), if the lease is not concluded within 6 months of the service of notice to request that a lease in writing be entered into, the Land Court may determine the terms of the lease, subject to subsections (4) and (5). Section 11 of the Bill empowers the Land Court to vary the rent payable under a SLDT or LDT in determining any matter under subsection (3).

41. Subsection (6) provides the Land Court with discretion to apply its determination from a later date if to do so would allow either landlord or tenant to remedy a situation that would otherwise have left them in breach of a term of their tenancy.
Section 13: Freedom of cropping and disposal of produce

42. This section acts to extend the scope of section 7 of the 1991 Act to include SLDTs and LDTs. The principal effect of this is to confirm that the agricultural tenant has the right to dispose of any produce of the land (other than manure) and practice any system of cropping any arable land as they see fit. This right applies regardless of any provision in the lease to the contrary.

Section 14: Permanent pasture

43. This section extends the scope of section 9 of the 1991 Act to apply to SLDTs and LDTs as well as 1991 Act tenancies. That section allows either landlord or tenant to serve a notice on the other, to demand a reference to arbitration on the question of whether land required to be maintained as permanent pasture by the lease need in fact be maintained in this way. Disputes on this matter are to be within the exclusive jurisdiction of the Land Court (see paragraph 14 of the schedule to the Bill).

Section 15: Fixed equipment

44. Section 5 of the 1991 Act sets out the respective rights and responsibilities of landlord and tenant in relation to the maintenance and replacement of fixed equipment. The purpose of this section of the Bill is to extend the scope of these provisions to apply to SLDTs and LDTs.

45. Fixed equipment is defined in subsection (5). Subsections (1) and (2) provide that fixed equipment should be as specified in the lease, and that landlord and tenant may adjust that specification in writing at any time during the term of the lease. Subsection (3) deems the tenant to accept the condition and suitability of any fixed equipment specified in the lease at the commencement date or as agreed.

46. Subject to these provisions, subsection (4) acts to apply the terms of section 5(2) to (4) of the 1991 Act to fixed equipment specified in SLDTs and LDTs.

Section 16: Resumption of land by landlord

47. This section acts to restrict the circumstances in which a landlord may resume the land let before the end of the term.

48. Subsection (1) clarifies that resumption is permissible only where both the landlord has planning permission for the purpose behind the resumption and the lease does not expressly prohibit resumption. It prevents a situation arising where a landlord used planning permission obtained by a LDT tenant to allow them to diversify as a trigger to resume the land. The landlord must give notice of any intention to resume land, by virtue of subsection (2).

49. Where the landlord intends to resume part of the land, subsection (3) gives the tenant the power to terminate the tenancy over the whole land. Alternatively, subsection (4) provides that the tenant is entitled to a reduction in rent commensurate with the proportion of the land resumed.
50. Subsection (5) and (6) provide for the restoration of resumed land to the tenant in certain circumstances, where part of the land is resumed. These circumstances are that the tenancy remains in effect between the same landlord and tenant and any compensation payable to the tenant on resumption was made on the basis that resumed land would be restored to the tenancy.

Section 17: Irritancy of lease and good husbandry

51. Subsection (1) requires landlord and tenant to agree and specify within the lease the grounds that will allow for irritancy of the lease (i.e. termination of the lease by the landlord due to breach of contract by the tenant).

52. Subsection (2) and (3) define "good husbandry" in the context of where failure to use the land in accordance with the rules of good husbandry is used as a basis for irritancy. That definition is by reference to Schedule 6 to the Agricultural Holdings (Scotland) Act 1948. However, it is also extended to include the carrying out of conservation activities. These activities qualify under this section if they are carried out with the conditions of public grant made for those purposes. These subsections run in parallel with section 57 of the Bill, which amends section 85 of the 1991 Act.

53. Subsection (4) and (5) set out the process by which a landlord may irritate the lease. This requires the landlord to serve notice of at least 2 months of their intention to irritate the lease and remove the tenant.

Section 18: Resumption and irritancy: supplementary

54. This provision provides that resumption under section 16 of the Bill and irritancy by virtue of section 17 override standard termination arrangements for SLDTs and LDTs, set out in sections 6 and 8 respectively.

Section 19: Section 16 of the Succession (Scotland) Act 1964

55. This section amends the effects of the Succession (Scotland) Act 1964 for LDTs and SLDTs.

56. New section 16(4A) and (4B) ensures that, notwithstanding any provision in a lease prohibiting assignation, the executor can assign the deceased tenant’s interest in the tenancy to a member of their family.

57. New section 16(4C) provides executors with a new power to assign the lease where a tenant dies intestate or a bequest fails, without searching for a successor to the lease. This will enable the executor to realise the value of the tenancy and distribute the sum realised among the beneficiaries of the tenant’s estate more quickly in circumstances where beneficiaries are clearly not interested in assuming the tenancy. It also allows the executor to terminate the lease if a successor has not been found within the period defined in new subsection (4D).
Section 20: Bequest of lease

58. This section provides an equivalent to section 11 of the 1991 Act in relation to tenants under LDTs and SLDTs. It sets out that such tenants may bequeath their interest in the tenancy to a member of their family, including sons-in-law or daughters-in-law (equivalent to section 11(1) of the 1991 Act). Section 16 of the 1964 Act, as amended by section 19 of the Bill, applies if that person does not accept the bequest, by virtue of section 20(3) of the Bill.

Section 21: Right of landlord to object to acquirer of tenancy

59. This section extends the provisions of section 12 of the 1991 Act, which applied to 1991 Act tenancies, to SLDTs and LDTs. Its effect is to oblige the person assuming the deceased tenant’s interest in the lease to notify the landlord, who then has 21 days to raise an objection to that person as replacement tenant.

60. Subsection (2) applies the provisions of section 12(2) to (4) of the 1991 Act to SLDTs and LDTs. Its effects are to require the landlord to serve a counter-notice to the new tenant and apply to the Land Court for an order terminating the tenancy. The new tenant has possession of the land by virtue of section 12(4) of the 1991 Act unless and until the Land Court agrees to a landlord’s application to terminate the tenancy.

Section 22: Effect of termination of tenancy where tenant deceased

61. This section stipulates that, if a lease is terminated following the death of a tenant, compensation at waygo is payable as it would be if the lease had been terminated in other circumstances.

PART 2: TENANT’S RIGHT TO BUY LAND

Section 23: The Keeper and the Register

62. Under Part 2 of the Land Reform (Scotland) Bill, the Keeper of the Registers of Scotland is to set up a Register of Community Interests in Land, to record registrations of community interest to acquire land under the Community Right to Buy provided for in that Bill. Section 23 of this Bill requires that, as part of that Register, the Keeper should set up and maintain a section that registers tenants’ interests in land, including information required by virtue of section 24(3) of this Bill.

Section 24: Registration of tenant’s interest

63. Section 24 sets out the process for registering an interest in land and explains the duties of the tenant, the landowner and the Keeper.

64. Subsections (1) and (4) instruct tenants who wish to register an interest in their land to notify the landlord of their intention to do so. Subsection (1) sets out that only tenants under a 1991 Act tenant may register interest in the land, while subsection (2) provides that sub-tenants may not register interest. While the statutory right to buy will only be available to tenants who have registered interest, there will be nothing in practice to prevent a landlord and tenant from
concluding a transaction voluntarily. The information to be set out in the notification is set out in subsection (3).

65. Subsections (5) and (6) provide that the Keeper must notify the landowner and, if appropriate, a creditor in a standard security over the land. The Keeper may charge a fee for registration, by virtue of subsection (7).

66. Subsections (8) to (11) deal with any dispute that may arise as to whether a tenant has a right to register an interest in the land.

67. Subsection (12) restricts the effect of a registration to 5 years. Responsibility for informing the Keeper where the tenancy is terminated within this period (and the tenant thereby loses the right to buy) rests with the landlord, (subsection (13) refers). Subsection (14) permits a tenant to register again their interest in the same land at a later date. Subsection (15) requires the Keeper to remove from the register any registration of interest which no longer has effect.

Section 25: Notice of proposal to transfer land

68. Section 25 obliges the landlord (or creditor in a standard security if appropriate) to notify registered tenants and the Keeper in writing if they propose to transfer the land. Failure to do so will allow the tenant to purchase the land from the new landowner by virtue of section 27. Ministers will be able to prescribe the form and nature of that notice, by virtue of subsection (2).

Section 26: Transfers not requiring notice

69. This section sets out the types of transfer that will not trigger the pre-emptive right to buy and, therefore, will not require notification from landlord to tenant under section 25. The list is similar to section 37 of the Land Reform (Scotland) Bill, which sets out which transactions will trigger the community right to buy. So, for instance, gifts, intra-family transfers and transfers on the death of the landlord will not trigger the pre-emptive right to buy. Subsection (6) allows Ministers to modify this list by order.

Section 27: Right to buy

70. Subsection (1) provides that a registered tenant has a right to buy the landlord’s interest in the land on transfer. This occurs when the seller takes action to transfer the land (subsection (1)(b) and (4)). By virtue of subsections (3) and (5), that right to buy will have effect against the new purchaser of the land. Subsection (6) allows Ministers to modify by order subsections (4) and (5) which define the stages by which the tenant should have been notified of the owner’s intention to sell and the owner of land.

71. Subsection (2) provides that, if the landlord sells land that includes part of a registered tenant’s land, the tenant’s right to buy is restricted to the portion of land within the holding to be sold.
Section 28: Exercise of right to buy

72. This section allows a tenant to proceed to buy the land from the owner, or as the case may be the creditor, following the service of appropriate notice. Subsection (1) to (4) outline the notice requirements. Generally, the tenant should serve notification within 14 days of receipt of notification by the landlord of their intention to sell.

73. Subsection (6) extinguishes the tenant’s right to buy if notice is not served timeously or the tenant otherwise indicates to the landlord that they do not intend to exercise the right. Subsection (7) stipulates that, in such circumstances, the tenant may acquire the right to buy the land on a future occasion.

Section 29: Procedure for buying

74. This section states that it is for the tenant to make an offer to buy the land over which it has a right to buy.

75. Subsection (2) provides that the price payable is that agreed between the parties or determined by either the appointed arbiter or Land Court on appeal. This Part of the Bill allows a landlord and tenant to conclude a bargain voluntarily, instead of relying on the statutory process.

76. The offer should specify the date of entry. Under subsection (4), the offer may include other conditions, for example, relating to the maintenance of common property.

77. Subsection (3) specifies how the date of entry and payment of the price are determined. A time limit of 6 months is set for the tenant to pay the determined price. However, where the price is subject to an appeal which has not been agreed within 4 months, payment must be made within a further 2 months of the date of determination of the appeal, unless a later date has been agreed between the parties.

78. Subsections (5) to (7) allow the landlord to apply to the Land Court for an order requiring action by the tenant where these timescales are not met. If the tenant fails to comply with such an order, or the landlord and tenant reach agreement outwith the statutory process, then the right to buy is extinguished, but the tenant will can acquire the right to buy the land on a future occasion (subsections (8) and (9) refer).

Section 30: Appointment of valuer

79. This section covers the appointment of a valuer by agreement by the tenant and the landowner. Subsections (2) to (3) cover the appointment of a valuer when there is more than one tenant on the estate applying to buy a holding. The effect of the section is to ensure that one valuer (or group comprising 2 valuers and an independent oversman, who can determine the outcome of issues of disagreement between the valuers) can act on behalf of all parties where more than one eligible tenant wishes to exercise a right to buy. The valuer has to be agreed by both the landlord and at least half of the tenants. If there is no agreement by the parties, either the seller or the tenant (or half of them) can refer the appointment to the Land Court.
Section 31: Valuation of the land and price

80. This section covers what a valuer must assess in coming to a valuation.

81. Subsection (2) requires the valuer to assess the value that the landlord and tenant would have agreed upon, had they concluded a transaction voluntarily. In doing so, the valuer will have to take into account the fact that the tenant does not purchase land with vacant possession but, by purchasing the landlord’s interest, they obtain ownership with vacant possession. Subsection (2) also lists other factors that are to be considered or discounted.

82. In some circumstances, the holding will form only part of an area of land which the landlord wishes to sell. In this case, subsection (3) requires the valuer to calculate a second value, which represents the loss in sale proceeds that the landlord can expect to receive from a third party for the whole lot to be sold arising from the fact that the holding is or holdings are to be sold separately. Subsection (4) instructs the valuer to apportion the loss among the holdings equitably, where more than one holding is to be purchased under the right to buy. In some instances, the removal of the holding could substantially reduce the value of the remaining estate to a third party. The price to be payable, by virtue of subsection (7) is the higher of these calculations.

83. Subsection (5) allows Scottish Ministers to issue guidance on how valuations are assessed.

Section 32: Valuation etc.: further provision

84. This section sets out additional requirements regarding the valuation process.

85. Subsections (1) and (2) require the valuer to invite and consider any written representations from the landowner, tenant and any other person with an interest relating to the land. Subsection (3) allows the valuer to enter land and make additional requests of seller and tenant for the purposes of assessing a value.

86. Subsection (4) requires the appointed valuer to notify the tenant and the landowner in writing of the valuation within 6 weeks of the valuer’s appointment.

87. Subsections (5) and (6) cover the valuer’s expenses. These are usually to be met by the tenant(s). If, however, the landlord does not proceed with the sale, despite the tenant complying with requirements on them, the landlord is liable for any such expenses.

88. Subsection (7) allows the Scottish Ministers to make further regulation on valuation issues under sections 30 to 32 by regulation.
Section 33: Appeal to the Land Court against decisions of valuer

89. This section provides that the landowner and the tenant may appeal against the valuation to the Land Court. Such an appeal must state the grounds on which it is being made and must be lodged within 21 days of notification of the valuation (subsection (2) refers).

90. Subsection (3) allows the Land Court to reassess the valuation. Subsections (4) and (5) permit the Land Court to hear the valuer who made the valuation and any person with an interest in the estate in the appeal proceedings.

91. Subsection (6) requires the Court to give reasons for its decision in writing within two weeks of hearing the appeal. However, under subsection (7), the validity of the tenant’s right to buy is not affected by any failure by the Lands Tribunal to comply with this time limit. The existence of these proceedings will not prevent the landlord and tenant agreeing a price between themselves (subsection (8) refers).

PART 3: USE OF AGRICULTURAL LAND: DIVERSIFICATION

Section 34: Use of land for a non-agricultural purpose

92. This section provides the basis for tenants under a 1991 Act tenancy or LDT to use the land for diverse purposes, provided (as subsection (4) makes clear) the notice procedure in section 35 is adhered to. Subsection (1) provides that, once such an agricultural tenancy has been entered into, the use of the land for a non-agricultural purpose shall not of itself cause the tenancy to cease to be a tenancy of agricultural land subject to the 1991 Act or this Bill.

93. This provision over-rides any term within a 1991 Act or LDT lease that purports to prohibit diversification, as subsection (2) sets out. Subsection (3) allows land to be sublet for a purpose ancillary to the tenant’s diversification (e.g. bed and breakfast or holiday home business) notwithstanding any provision in the lease to the contrary. Subsection (5) stipulates that the diversification provisions can apply to all or part of the land.

Section 35: Notice of and objection to diversification

94. This section sets out the notification procedure in relation to a proposed diversification to which section 34(1) of the Bill applies.

95. Subsection (4) allows a tenant under a 1991 Act tenancy or LDT to use land within the holding for a non-agricultural purpose if the landlord does not object. However, the tenant must first serve notice to the landlord of their intentions under subsection (1), setting out the information required by subsections (2) and (3). If the landlord does not object, then the diversification can begin on the date set out in the notice (and subsection (2) requires the tenant to give at least 70 days notice) or on an earlier date if agreed to by landlord and tenant.

96. The information which the tenant should provide by virtue of subsections (2) and (3) should allow the landlord to determine whether or not they wish to object to the proposed diversification, on the basis of one or more of the grounds under subsection (9). If the landlord
feels that the tenant has not provided sufficient information, subsection (6) allows them to request additional information from the tenant within 30 days of being notified of the proposed diversification. The tenant should provide that further information within 30 days (subsection (8) refers). Unless the landlord objects within 60 days of receiving the notice or requesting additional information, they will be deemed to have agreed to the proposed diversification, by virtue of subsections (11) to (13). Alternatively, the landlord can agree to the proposed diversification subject to conditions, by virtue of subsection (10), but again only if this is notified to the tenant within these timescales.

97. Where a proposed diversification relates to the planting and cropping of trees, the positive consent of the landlord is required before the application can be agreed to. This is because the trees will mature over a long period, typically substantially longer than the term of a LDT, and their presence will restrict the utility of the land for agricultural purposes and, consequently, its rental value.

Section 36: Tenant’s right to timber

98. This section explains that, unless an agricultural lease or agreement between the parties expressly makes provision for compensation, tenants own and have the right to cut and use as they see fit timber from trees they had planted on the land.

PART 4: COMPENSATION UNDER AGRICULTURAL TENANCIES

Section 37: Agreements as to compensation

99. This provision prohibits the parties to an agricultural lease from agreeing that no compensation should be payable for improvements made to the land. The position at law about whether or not the parties can agree for no compensation to be payable has not been clear.

Section 38: Right to compensation for improvements

100. This section provides the equivalent to section 34 of the 1991 Act, so that tenants to a SLDT or LDT are entitled to compensation at the termination of the tenancy for compensation for improvements they had made to the land (as listed in Schedule 5 to the 1991 Act). Section 40 below sets out how the compensation payable is to be calculated.

101. Subsection (3) provides an equivalent to section 34(6) of the 1991 Act, so that compensation is allowed for temporary pasture despite it being in breach of the terms of the lease about the tenant’s freedom of cropping, as provided for by section 7 of the 1991 Act (as applied to SLDTs and LDTs by section 13 of the Bill).

102. Subsection (4) enables the parties to a lease to agree on compensation in lieu of these statutory provisions, in the same way as section 36(4) of the 1991 Act provides for 1991 Act tenancies.

103. Subsection (5) ensures that a tenant’s right to compensation for improvements made to the land can apply to improvements carried out at any time during their current period of
occupation of the land, even under a previous tenancy which had since been superseded or if the term of the current tenancy had been extended.

Section 39: Payment of compensation by incoming tenant

104. This section acts to extend section 35 of the 1991 Act so as to apply to SLDTs and LDTs. That section stipulates that, unless otherwise provided for, any agreement between landlord and incoming tenant which required the incoming tenant to pay compensation due to the outgoing tenant by the landlord for improvements made to the land is void.

Section 40: Amount of compensation

105. Consistent with section 36 of the 1991 Act as it applies to 1991 Act tenancies, this section makes clear that the amount of compensation payable to a tenant is to be calculated as the value of the improvement to an incoming tenant. Account should be taken of any benefit from landlord to tenant for carrying out the improvement or any other grant payable to the tenant in respect to the improvement. Any injury or deterioration of the land in contravention of the lease should also be treated as a factor to be taken into account.

Section 41: Consent required for compensation in certain cases

106. Schedule 5 to the 1991 Act distinguishes improvements for which compensation is payable between those for which the landlord’s consent is required (listed in Part I of Schedule 5, those where notice is required but not consent (Part II) and those where consent or notice is not required (Part III)). This section confirms that compensation should not be payable in respect of improvements listed in Part I unless the landlord has consented to the improvement in writing. It extends the scope of the relevant elements within section 37 of the 1991 Act to apply to SLDTs and LDTs.

107. Subsection (2) stipulates that if, in giving consent, the landlord agrees compensation terms with the tenant, these terms should over-ride the provisions within section 38 above.

Section 42: Notice required for certain improvements

108. This section is consistent with section 41, in relation to activities for which notice to the landlord (but not the consent of the landlord) is required, as listed in Part II of Schedule 5 to the 1991 Act. It provides an equivalent to section 38 of the 1991 Act, in relation to SLDTs and LDTs.

109. Similar to section 41(2) of the Bill, subsection (2) states that if, after giving notice, the tenant agrees compensation terms with the landlord, these terms should over-ride the provisions within section 38 above.

110. Subsection (3) extends the scope of section 39 of the 1991 Act to SLDTs and LDTs, so that compensation for improvements is conditional on the approval of the Land Court, where the landlord serves a valid notice of objection to a tenant’s proposed improvement notified under subsection (1) above.
Section 43: Compensation for disturbance and damage by game

111. Subsection (1) deletes section 43(4)(c) of the 1991 Act for 1991 Act tenancies. Its effect is that there is no longer to be a maximum limit on the amount of compensation payable to the tenant on disturbance (currently an amount equivalent to 2 years rent of the land).

112. Subsection (2) amends section 52 of the 1991 Act for 1991 Act tenancies by adjusting the time limits within which a tenant must submit a claim for damage by game. The current provision results in a tenant having anything from one month up to 12 months in which to submit a claim, depending on when within an agreed 12-month period the damage occurs. The effect of the change introduced by this subsection is to require the tenant to submit a claim for compensation within 6 months of the date on which the tenant notified the landlord of the damage as required by section 52(2)(b) of the 1991 Act.

Section 44: Compensation arising as a result of diversification, etc

113. This section introduces new section 45A to the 1991 Act, which is to apply to 1991 Act tenancies. As new section 45A(5) provides, the parties can contract out of these provisions if they so wish, although any such agreement is of no effect if it purports to provide that no compensation should be payable.

114. New section 45A(1) provides for compensation to be payable to the landlord for loss of value of the land as a result of the actings of the tenant through diversification or conservation activities.

115. Subsections (2) to (4) allow for compensation to be payable to either the landlord or the tenant for loss of value of the land or gain in value of the land respectively, as a result of the actings of the tenant through tree planting for the purposes of cropping (as opposed to purposes ancillary to agriculture, such as establishing shelter belts). The direction in which compensation is payable and the amount to be paid are calculated as the difference between (a) the current value of the trees to a hypothetical purchaser for investment and harvest, and (b) the expected cost to the landlord of retaining the trees (i.e. the value of future agricultural rent foregone in the period up to the likely harvest date plus the cost of restoration of the land to agricultural use). If (a) exceeds (b), then compensation is payable to the tenant; otherwise compensation is payable to the landlord.

Section 45: Compensation for disturbance

116. This section extends the scope of section 43 of the 1991 Act to apply to SLDTs and LDTs. Because a tenant under a SLDT or LDT enters into a lease for a specified duration, the Bill ensures that they do not receive such financial advantage where they choose to give up their interest in the tenancy before its end date. As a result, subsection (1) allows for the payment of compensation for tenants under SLDTs and LDTs where the landlord resumes the land (as for 1991 Act tenants), but not where a lease terminates or is assigned (unlike for 1991 Act tenants).
117. Otherwise, subsections (2) and (3) apply the terms of section 43(3) to (7) of the 1991 Act on the amount of compensation due, while subsection (4) has an equivalent effect to section 49(2) of the 1991 Act.

118. Subsection (5) acts to apply the relevant terms of section 58 of the 1991 Act, which sets out what additional compensation may be paid to the tenant where the land is resumed. The inclusion of this provision means there is no need for an equivalent of section 43(8) of the 1991 Act, which states in general terms that compensation payable under that section is to be in addition to any other paid to the tenant.

Section 46: Compensation for other particular things

119. This section clarifies requirements for the payment of compensation in SLDTs and LDTs.

120. It ensures that the landlord or the tenant under a SLDT or LDT is entitled to receive compensation in several additional situations. These situations are where the tenant is required to adopt continuously a special standard of farming or suffers damage by game (subsections (1) and (3) respectively refer).

121. Subsection (2) provides that a landlord under a LDT can benefit from the compensation introduced under new section 45A for loss of value of the land arising from the actings of the tenant through diversification or conservation activities (as introduced by section 44 of the Bill). Subsection (3) applies the provisions of the 1991 Act on compensation for damage by game (as modified by section 43(2) of the Bill) to SLDTs and LDTs.

Section 47: Compensation where compulsory acquisition of land

122. Sections 56 to 59 of the 1991 Act provide for the payment of compensation to the tenant from the acquiring authority for compulsory purchase of part or all of the land. This section acts to extend these provisions to SLDTs and LDTs.

123. Subsection (1) makes equivalent provision to section 56(1) of the 1991 Act.

124. Subsection (2) mirrors section 54(2) of the 1991 Act as applied by section 56(2) in that Act, providing for a compensatory payment.

125. The exclusions under section 57(2) of the 1991 Act, subject to section 57(3) of that Act, are covered by subsections (4) and (5).

126. Subsection (6) and (7) reflect sections 57(4) and 59 of the 1991 Act respectively.

Section 48: No right to penal rent, etc.

127. This section makes provision for SLDTs and LDTs similar to section 48 of the 1991 Act. It prevents the landlord from imposing a financial penalty on the tenant for a breach or non-
fulfilment of a term or condition of the lease, and overrides any purported condition in the lease to the contrary.

**Section 49: Provision as to parts of land and divided land**

128. This section provides the equivalent of sections 49(3) and (4) and 50 of the 1991 Act for SLDTs and LDTs.

129. Subsection (1) and (2) act to remove non-agricultural land within the holding from consideration when calculating compensation payable under this Part of the Bill. The definition of non-agricultural land in subsection (2) differs for the corresponding definition for 1991 Act tenancies under section 49(4) of the 1991 Act, in that it considers whether the land would have been capable of being let as an agricultural tenancy when the tenancy commenced. The effect of this distinction is that agricultural land used by the tenant for diversified purposes is not caught by subsection (2).

130. Subsection (3) provides that, where the landlord's interest in the land splits among two or more interests and the lease is not apportioned among these interests with the tenant's consent or under statutory provision, the tenant can choose either to claim compensation pro rata from each of the current landlords or in full from the person who would have been landlord had the land not been divided. Subsection (4) inserts a right for the Land Court to determine how compensation is to be apportioned for payment among the landlords.

**Section 50: Compensation not payable where direction as to permanent pasture**

131. This section covers what is in section 51 of the 1991 Act for SLDTs and LDTs. It clarifies that no compensation is to be payable to the tenant in pursuance of any direction about permanent pasture by virtue of section 14 of the Bill (including improvements). It also restricts the compensation that can be paid to an outgoing tenant where land is ploughed up in pursuance of a permanent pasture direction.

**Section 51: Extent to which compensation recoverable under agreements**

132. This section provides the equivalent to section 53 of the 1991 Act for SLDTs and LDTs.

133. Subsection (1) sets out a general principle, to apply unless another provision in this Part of the Bill states to the contrary. That principle is, where a provision within the Bill provides for the payment of compensation between the landlord and tenant in a LDT or SLDT, that provision should override any agreement to the contrary (whether to increase, reduce or not pay the compensation).

134. Subsection (2) provides an exception, so that compensation can be excluded where the parties agree in writing that the terms of a lease provide for this instead of having a permanent pasture direction vary the position.

135. By virtue of subsection (3), no claim for compensation can be enforced unless it is either provided for within the Bill or agreed between the parties in writing.
PART 5: MISCELLANEOUS AMENDMENTS TO THE 1991 ACT

Section 52: Making of records

136. Section 8 of the 1991 Act makes provision for the making of a record of the condition of the fixed equipment on, and of the cultivation of, the land. Such a record is a prerequisite for a tenant's claim for high farming (i.e. compensation for adoption of a special standard or system of farming that benefits the value of the land) under section 44 or a landlord's claim for compensation for dilapidation, deterioration and damage under section 45 of that Act.

137. Changes to the form of the record and the method of appointment of recorders are made by subsection (1), which amends section 8 of the 1991 Act. Recorders no longer require to be appointed by the Scottish Ministers. The parties may appoint their own choice of recorder by joint agreement. If they fail to agree, either party may apply to the Scottish Ministers to appoint the recorder. The Scottish Ministers may charge a reasonable fee for doing so, by virtue of new section 8(3A).

138. The record need no longer be in statutory form. The parties are free to determine the form of the record by joint agreement. In the absence of agreement, questions of form are a matter for the recorder (new section 8(3B) refers). Form for this purpose includes the media by which the record is made as well as the format, so for example video records may be competent. Sections 8(8) and (9) are now restricted in application to recorders appointed by the Scottish Ministers. The remuneration of recorders appointed by the parties is a matter for private negotiation.

139. Subsection (2) makes special provision in relation to the effect of section 80 of the 1991 Act (which transfers the jurisdiction of the Scottish Ministers under that Act to the Land Court in relation to leases to which the Ministers are a party) on section 8 of that Act. In relation to leases to which the Scottish Ministers are a party, the Scottish Ministers’ jurisdiction to appoint recorders where they and the other party to the lease cannot agree on the appointment is transferred to the sheriff. It is not appropriate for the Land Court to exercise such jurisdiction as the Court has jurisdiction over appeals against the recorder's findings by virtue of section 8(6).

Section 53: Interdict in certain cases

140. This section amends section 7 of the 1991 Act, which regulates the tenant’s right to dispose of the produce of the land and to practise any system of cropping of the arable land on the holding. Under that section, the landlord’s only remedies in respect of injury or damage to the holding are interdict or damages. Paragraphs (a) and (b) provide that only the Land Court can grant these remedies.

141. For the purposes of interdict proceedings under section 7(3), the question of whether a tenant's action has injured or deteriorated the land, or is likely to do so is subject to the general rules of jurisdiction set out in this part of the Bill. Either party may refer that matter to the Land Court unilaterally, or they may submit the matter to an alternative form of determination (including arbitration) by agreement under the new section 61(1) of the 1991 Act – see section 60 of the Bill. Paragraphs (1)(c) and (d) contain consequential amendments reflecting this.
Section 54: Effect of diversification on rents

142. This provision amends section 13 of the 1991 Act, which sets out how variations to rent should be assessed. The amendment to section 13(7) ensures that rental values should not be reduced as a result of any depreciation in the rental value of the land, where the reason for that depreciation is that the land is being used or has been changed for a non-agricultural purpose. This ensures that landlords do not suffer loss of revenue from the use of the land they own as a result of any diversification by their tenants.

143. The section also addresses how the Land Court may take account of any increases in the rental value of land that are attributable to its use for non-agricultural purposes, when determining variations to rent. It extends the scope of section 13(5) of the 1991 Act, so that the Land Court should not take account of any increase in rental value due to improvements made by the tenant to the land, whether the land is used for an agricultural or non-agricultural purpose. However, new section 13(7A) ensures that, where the rental value of land appreciates by virtue of its use for a diversified purpose, then account should be taken of that. This ensures that rental values for land used for non-agricultural purposes should not be any lower by reason only that the land is the subject of an agricultural tenancy.

Section 55: Notices to quit

144. This section amends the test applied by the Land Court under section 24(2) of the 1991 Act. This test applies where a landlord serves notice to quit for change of use to non-agricultural use, where planning permission is required but has not been granted, and counter-notice may be served under section 22(2)(b), as discussed above.

145. The test is amended to extend the grounds in which the Land Court may refuse consent for a notice to quit. It now requires both that a fair and reasonable landlord would insist on possession, and that termination is in the public interest. An economic and social benefits test is provided for, and scope is given for Ministers to define the meaning of these words.

Section 56: Restoration of agricultural holding following mineral exploitation

146. New section 29A of the 1991 Act provides tenants with a right to regain tenancy over land which was removed from the holding for mineral extraction, once that extraction has been completed and the land has been restored for agricultural use. This is subject to the conditions in subsection (3), namely that the tenancy continues with the same landlord and tenant, and compensation paid to the tenant on resumption of the land for mineral workings took account of the intention to restore the land for agriculture and return it to the holding. Section 16(5) and (6) make similar provision in relation to SLDTs and LDTs.

Section 57: Good husbandry and conservation activities

147. This section introduces to the 1991 Act a definition of "good husbandry" which matches that in section 17 of the Bill and allows conservation activities undertaken by a tenant to be encapsulated within its scope.
These documents relate to the Agricultural Holdings (Scotland) Bill (SP Bill 62) as introduced in the Scottish Parliament on 16 September 2002

PART 6: RIGHTS OF CERTAIN PERSONS WHERE TENANT IS A PARTNERSHIP

Section 58: Rights of certain persons where tenant is a partnership

148. The section applies to SLDTs, LDTs and 1991 Act tenancies entered into in future, but not to existing 1991 Act tenancies - see subsection (1).

149. Subsections (2) to (5) distinguish partners in a tenant partnership who are the landlord, an associate of the landlord (as defined by subsections (7) and (8)) or a partnership or company in which the landlord has an interest (as defined by subsection (7)) from other partners. Subsection (3) allows other partners the right to exercise or enforce any right of a tenant conferred by the Bill or 1991 Act (e.g. the right to claim compensation from a landlord) notwithstanding any decision of the partnership to the contrary. Subsections (4) and (5) provide other partners with the means to continue the tenancy entered into by the partnership where the partnership itself either is dissolved or terminates the lease prematurely, provided notice is served in accordance with subsection (6).

150. Subsection (9) provides the means for the scope of subsections (7) and (8) to be modified as necessary by statutory instrument. Any such instrument would be by affirmative resolution.

PART 7: JURISDICTION OF THE LAND COURT AND THE RESOLUTION OF DISPUTES

Section 59: Jurisdiction of the Land Court

151. This section abolishes the present compulsory arbitration jurisdiction over questions between the landlord and tenant of an agricultural holding. A new section 60 of the 1991 Act is substituted to confer jurisdiction on the Land Court to determine such matters as are described in new section 60(2) and (3). This means that the Land Court will become the primary forum for the resolution of agricultural holdings disputes.

152. A wide jurisdiction is conferred on the Court, including any question as to whether a landlord and tenant relationship exists or whether the subject of that relationship is an agricultural holding – see section 60(2)(a) of the 1991 Act. In addition, an application can be made to the Land Court for its opinion on questions of law or fact relating to any type of agricultural tenancy or agriculture- see section 60(2)(d). Certain specific exceptions to the Land Court’s jurisdiction are listed in section 60(3). Jurisdiction over such matters remains with the sheriff court and the Court of Session.

153. Section 60(4) sets out who can apply to the Land Court for such a determination. In contrast to the present position under the 1991 Act, either party to a tenancy of an agricultural holding may refer a relevant matter to the Land Court for determination without the consent of the other party. A joint application to the Court also remains competent. The existing specific jurisdictions of the Land Court are preserved by virtue of section 60(5).
154. Section 60 of the 1991 Act requires to be read in conjunction with the parties’ rights to refer matters to arbitration or any other means of determination they elect under new section 61(1) of the 1991 Act, substituted by section 60 of the Bill.

Section 60: Arbitrations etc.

155. This section replaces the present procedure for the resolution of agricultural holdings disputes under the 1991 Act by compulsory arbitration. New sections 61, 61A and 61B are substituted for section 61 of the 1991 Act.

156. The Land Court has a very broad jurisdiction in agricultural disputes under the 1991 Act. Where jurisdiction to make a determination is not reserved to the Land Court under section 61(2), at or after the time when a dispute arises, a landlord and tenant may agree to refer a matter that could be determined by the Land Court under the 1991 Act to arbitration – see section 61(1). Alternatively, in such cases the parties can agree to select any other competent method of determination under section 61(3). Arbitration or alternative methods of dispute resolution are only permitted by way of a joint reference. Neither party can be required to submit to either procedure.

157. Schedule 7 to the 1991 Act (which sets out arbitration procedure) is repealed – see paragraph 40 of the Schedule. In its place section 61A makes general provision for the procedure to be followed at an arbitration under section 61(1). The parties are given a wide discretion to determine the procedure by which the arbitration is to be conducted, through section 61A(4). In the absence of any direction by the parties, the arbiter may determine the procedure. That discretion is however limited to matters of procedure. Neither the parties nor the arbiter may disapply any substantive provisions of the legislation which specify how a determination is to be made – see section 61A(5).

158. Once the parties have agreed to refer a matter to arbitration, they lose their right to have the matter determined by the Land Court (at first instance) or by any other means – see section 61A(2). The parties may choose to submit their dispute to a single arbiter or to two arbiters (with or without an oversman) – section 61A(3) refers. The Arbitration (Scotland) Act 1894 will apply to arbitrations under section 61(1). Under sections 2 and 3 of the 1894 Act, the sheriff or the Court of Session may appoint an arbiter in the event of a failure of the parties to agree the nomination of a single arbiter, or in the case of a reference to two arbiters, of one party to nominate an arbiter. Section 4 of the 1894 Act provides that in a reference to more than one arbiter, unless the submission otherwise provides, the arbiters may appoint an oversman to determine the reference in the event of their failure to agree. The sheriff or the Court of Session may appoint such an oversman in the event of a dispute.

159. The existing rights of appeal against an arbiter's determination under the 1991 Act (to the Land Court under section 61(2) and by stated case to the sheriff under paragraph 20 of Schedule 7) are repealed. The right of appeal to the Court of Session under section 3 of the Administration of Justice (Scotland) Act 1972 is displaced by section 61A(6) which provides a right of appeal to the Land Court against an arbiter's determination on questions of law only. Such an appeal must be lodged within 28 days. The decision of the Land Court is final – see section 72(2) of the Bill.
160. In order to prevent the parties from circumventing the Land Court’s jurisdiction by contractual provision in their lease or ancillary agreements, an anti-avoidance measure is contained in section 61B. Any contractual provision, whether in a lease or other agreement, which restricts a landlord’s or tenant’s right to apply to the Land Court for a reference to arbitration or other determination is null and void. This does not prejudice the right of the parties to choose that a dispute is determined by arbitration, on or after the time when the matter arises, within the scope of section 61(1).

Section 61: Resolution of disputes by the Land Court

161. This section confers jurisdiction on the Land Court to determine disputes in relation to SLDTs, LDTs and leases for grazing and mowing under section 3 of the Bill. The extent of the Land Court’s jurisdiction is set out in subsections (1) and (2). Certain specific exceptions to the Land Court’s jurisdiction are listed in subsection (3). Jurisdiction over such matters remains with the sheriff court and the Court of Session. Either the landlord or the tenant may apply unilaterally to the Land Court or they may apply jointly – see subsection (4). Any specific Land Court jurisdictions in relation to such leases are preserved by subsection (5).

Section 62: Agreement to refer matters to arbitration

162. Except where the jurisdiction of the Land Court is reserved under subsection (2), at or after the time when a dispute arises, a landlord and tenant may agree to refer a matter that could be determined by the Land Court under the Bill to arbitration or any alternative method of determination under subsection (1). An anti-avoidance measure is contained in section 65.

Section 63: Arbitration: procedure etc.

163. This section provides for the procedure to be followed in an arbitration under section 62(1)(a). The provisions are identical to those applied to an arbitration under section 61(1) of the 1991 Act by section 60 of the Bill and section 61A.

Section 64: Other provisions as to the resolution of disputes

164. This section applies certain provisions of the 1991 Act to the resolution of disputes relating to SLDTs, LDTs and grazing or mowing lets under section 3 of the Bill.

165. Subsection (1) applies section 62 of the 1991 Act to any claim arising on the termination of a SLDT, LDT or lease for grazing or mowing under section 61(2)(c) of the Bill. Section 62 of that Act sets out time limits within which claims must be intimated and an application to the Land Court made under section 61(4) or a reference to arbitration or other determination made under section 62(1) of the Bill.

166. Subsection (2) applies section 65 of the 1991 Act to an award or agreement made under the Bill. Section 65 of that Act makes provision for the recording of such an award for execution in the Books of Council and Session (a public register for deeds and documents) or sheriff court books for the purposes of enforcing the award or agreement.
167. Subsection (3) applies the Land Court’s power under section 66 of the 1991 Act to modify the terms of a demand by a landlord that the tenant remedy a breach of the terms of the lease, to a determination of the Court under the Bill.

Section 65: Clauses in leases as to resolution of disputes

168. This section is an anti-avoidance measure. It prevents the parties to a SLDT, LDT or lease for grazing or mowing from restricting their right to refer relevant disputes to the Land Court for determination. Any contractual provision that attempts to do so, except a valid reference to arbitration or other determination under section 62(1) of the Bill, is of no effect.

Section 66: Amendment of the Scottish Land Court Act 1993

169. This section amends the Scottish Land Court Act 1993. The general jurisdiction of the Court is set out in section 1(6) of that Act and includes jurisdiction over matters arising under the 1991 Act or the Bill. Paragraph (a) repeals the reference to the Court's jurisdiction over 1991 Act matters in section 1(6) of the 1993 Act. The Court's extended jurisdiction set out in section 60 of the 1991 Act now applies in its place - see section 59 of the Bill.

170. Paragraph (b) inserts a new section 1(7A) in the 1993 Act which disapplies the existing procedure for appeals from the Land Court to the Inner House of the Court of Session by way of special case in relation to the Court's jurisdiction over matters under the 1991 Act. (Section 72 of the Bill makes separate provision for a right of appeal against determinations by the Land Court, save where the Land Court is acting as a court of appeal.)

171. Paragraph (c) amends the requirement for a review by the full Court of a matter determined by a single member or two members of the Court under the Land Court’s power of delegation in paragraph 6(2) of Schedule 1 to the 1993 Act. A new sub-paragraph 6(3) is added to the Schedule, which permits the Court to direct that there will be no such review in matters relating to its jurisdiction under the 1991 Act and the Bill.

Section 67: Power to amend Land Court’s jurisdiction

172. This section gives the Scottish Ministers a power to modify the matters which may be determined by the Land Court or excluded from a joint reference to arbitration or other means of determination in relation to matters arising under the 1991 Act and the Bill.

Section 68: Power of the Land Court to grant remedies etc.

173. This section sets out the Land Court’s powers to grant remedies in relation to cases concerning its jurisdiction under the 1991 Act and the Bill.

174. Subsection (1) gives the Court a very broad general power to make orders and grant such remedies as it considers appropriate to give effect to the rights of the parties. The remedies listed are not exhaustive, but include the power to grant interdict, interim interdict, final and interim orders ad factum praestandum (orders to the parties to take specific action), orders of restitution (restoring property), reduction or rectification (the striking down or amendment of deeds). The
Court may also grant the remedy of removal but only on the final determination of the case. It may not remove parties from the subjects of the tenancy in the interim. Instead, under subsection (2) the Court may order the parties to give financial or other guarantees before proceeding to hear the case.

Section 69: Remit from Land Court to the sheriff or Court of Session

175. The jurisdiction of the Land Court overlaps that of the Court of Session and the sheriff court. This section and section 70 make provision for the transfer of cases between the courts with a view to the matter being determined by the most suitable forum. Disputes between landlords and tenants of agricultural tenancies which concern non-agricultural matters or which affect third parties may be better dealt with by the ordinary courts.

176. Subsection (1) makes provision for the transfer of applicable cases (i.e. where the relevant court has concurrent jurisdiction) from the Land Court to the sheriff court or the Court of Session. Under subsection (2) the parties to any Land Court action or any interested third party may request that the Land Court remit the matter to the Court of Session, or that the Court of Session requires the Land Court to do so. The courts are given a wide discretion as to whether cases should be remitted - see subsections (1) and (3). The parties are not entitled to require that their case be remitted. Remits are at the discretion of the courts, the primary jurisdiction to remit lying with the Court of Session.

Section 70: Remit to the Land Court by the sheriff or Court of Session

177. Subsection (1) inserts a new subsection (2D) in section 37 of the Sheriff Courts (Scotland) Act 1971 which makes provision for the transfer to the Land Court of sheriff court cases which fall within the Land Court’s jurisdiction under the 1991 Act or the Bill. Such cases may be remitted either on the sheriff's own motion or on the motion of any party to the action where the sheriff considers it appropriate.

178. Subsection (2) empowers the Court of Session to transfer any case before it falling within the Land Court's jurisdiction to the Land Court. The Court may do so at its own instance or on the application of any party to the action if it considers it appropriate.

Section 71: Transmission of case where contingency

179. This section makes provision for the transfer of cases under the 1991 Act or the Bill where the same subject matter is being litigated simultaneously in two jurisdictions (a contingency).

180. Subsection (1) applies to contingencies between the sheriff court and the Land Court and enables the Land Court to require that the sheriff court cause be transmitted to the Land Court. Subsection (2) applies to contingencies between the Court of Session and the Land Court. It inserts a new subsection (3) in section 33 of the Court of Session Act 1988 which empowers the Court of Session to require that the Land Court case be transmitted to it in the event of such a contingency.
Section 72: Appeal from Land Court to Court of Session

181. This section makes provision for a right of appeal from the Land Court in relation to cases concerning matters within its jurisdiction under the 1991 Act or the Bill. It replaces section 1(7) of the Land Court Act 1993 in relation to 1991 Act cases - see section 66 of the Bill.

182. Subsection (1) provides that such appeals can only be made on questions of law and must be lodged within 28 days of the Land Court’s decision. Subsection (2) provides that there is no right of appeal to the Court of Session where the Land Court was acting as a court of appeal. Subsection (3) provides that there is no further appeal from the decision of the Court of Session.

Section 73: Expenses in sheriff court and Court of Session

183. Section 73 makes express provision for the award of expenses in the sheriff court and Court of Session in cases which could have been determined by the Land Court under the 1991 Act or the Bill. In addition to any other rules that apply, that fact must be taken into account in determining the award of expenses.

Section 74: Conduct of arbiter and setting aside of arbiter’s award

184. This section transfers the existing jurisdiction of the sheriff to remove an arbiter or set aside the arbiter’s award in relation to arbitrations under the 1991 Act or the Bill to the Land Court. The Court of Session's common law jurisdiction over such matters is unaffected. Under subsection (1) any interested party may apply to the Land Court where an arbiter has misconducted himself or herself or the arbitration has been improperly procured. In either case, under subsection (2) the Court can set aside the award. Where the arbiter has misconducted himself or herself, the Court may remove them.

PART 8: GENERAL PROVISIONS

Section 75: Orders and regulations

185. This section regulates the making of orders and regulations under the Bill.

Section 76: Ancillary provision

186. This section confirms that the Scottish Ministers may make orders as they consider necessary or expedient for the purposes of or in consequence of the Bill.

Section 77: Meaning of “family”

187. This section defines the meaning of “family”, as used in assessing whether a transfer of land should trigger the pre-emptive right to buy (under section 26(1)(b) and the relationship of partners within a limited partnership to the landlord (section 58(8)(d) refers).

Section 78: Interpretation

188. This section provides definitions of key terms used throughout the Bill.
Section 79: Amendments to enactments

189. This section deals with consequential amendments and repeals. The details are set out in the Schedule.

Section 80: Short title, Crown application and commencement

190. Subsection (1) clarifies that the short title of this Bill, when enacted, will be the Agricultural Holdings (Scotland) Act. Subsection (2) confirms the effect of the Bill upon the Crown (including Government Departments).

191. Subsections (3) and (4) provide powers for Ministers to determine on which day the provisions of the Act are to come into force (or days, if Ministers choose to commence different provisions on different dates).

SCHEDULE - AMENDMENTS TO ENACTMENTS

Sheriff Courts (Scotland) Act 1907 (c.51)

Paragraph 1

192. Section 37 of the Sheriff Courts (Scotland) Act provides for standard notice to quit periods that are to apply to leases. This provision disapplies section 37 to SLDTs and LDTs. No notice to quit will be required in relation to SLDTs, while section 8 of the Bill sets out the notice to quit procedure that is to apply to LDTs.

Succession (Scotland) Act 1964 (c.41)

Paragraph 2

193. Sections 19 to 22 of the Bill set out how succession to SLDTs and LDTs is to operate. This paragraph contains amendments consequent to those provisions.

Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35)

Paragraph 3

194. Paragraph 5 of Schedule 1 to the 1970 Act excludes an obligation created or imposed in relation to a 1991 Act tenancy from the types of land obligation which may be subject to variation or discharge by the Lands Tribunal under section 1 of that Act. This amendment extends that exclusion to SLDTs and LDTs.

Land Tenure Reform (Scotland) Act 1974 (c.38)

Paragraph 4

195. Section 8(5) of the 1974 Act excludes 1991 Act tenancies from the application of Part II of that Act, whereby long leases are not to be used as a private dwellinghouse. This exclusion is also to apply to LDTs and SLDTs.
These documents relate to the Agricultural Holdings (Scotland) Bill (SP Bill 62) as introduced in the Scottish Parliament on 16 September 2002

Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c.59)

Paragraph 5
196. Section 13 of the 1981 Act provides that a non-entitled spouse may not apply for an order transferring a 1991 Act tenancy to them. This provision extends this exclusion to SLDTs and LDTs.

Rent (Scotland) Act 1984 (c.58)

Paragraph 6
197. Section 25 of the 1984 Act includes a definition of “statutorily protected tenancy”, which excludes 1991 Act tenancies from the application of Part II of that Act on protection for the tenant against harassment and eviction without due process of law. This exclusion is extended to LDTs. Agricultural holdings law allows the landlord to apply conventional irritancy to the lease and, in so doing, evict the tenant. Section 17 of the Bill allows a landlord and tenant to provide within the lease grounds that would allow a LDT or SLDT lease to be irritated and the tenant evicted. The Scottish Law Commission has recently consulted on the law relating to the irritancy of leases (SLC Discussion Paper No. 117: Irritancy in Leases of Land).

Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73)

Paragraph 7
198. Section 7(2) of the 1985 Act excludes an agricultural holding as a type of lease which may not be irritated, except in compliance with the provisions of that Act. The amendment extends the definition of “agricultural holding” to include SLDTs and LDTs.

Agriculture (Scotland) Act 1986 (c.49)

Paragraphs 9 & 10
199. The amendments in paragraphs 9 and 10 are consequential on the amendments made to the 1991 Act by sections 59 and 60 of the Bill. These replace compulsory arbitration under the 1991 Act with the extended jurisdiction of the Land Court (under the new section 60 of that Act) and the right to make a joint reference to arbitration or other method of determination (under the new section 61(1) of that Act).

Paragraph 10(1)
200. Schedule 2 makes provision for the tenants’ rights to compensation for milk quotas. Paragraph 7(2) of that Schedule specifies certain matters which are to be disregarded for the purposes of a review of rent under section 13 of the 1991 Act. This amendment reflects the replacement of the system of compulsory arbitration which applied to section 13 by the universal jurisdiction of the Land Court provided for in the new section 60 of the 1991 Act.

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The 1991 Act

Paragraphs 12, 14 to 16, 20 to 32, 34, 35(c) and (d) and 41

201. The amendments in paragraphs 12, 14 to 16, 20 to 32, 35 (c) and (d) and 41 are consequential on the amendments made by sections 59 and 60 of the Bill.

Paragraphs 13, 17 and 18

202. The repeals in paragraphs 13, 17 and 18 are consequential on the amendments made to the 1991 Act by sections 59 and 60 of the Bill.

Paragraph 19

203. Under section 20 of the 1991 Act a landlord can raise an action of removing in the sheriff court for non-payment of rent. This paragraph transfers jurisdictions over such actions from the sheriff court to the Land Court. The reference to sheriff court procedure in section 20 is therefore repealed. The form of procedure to be used in the Land Court will be regulated by the Land Court Rules.

Paragraph 33

204. The repeal of sections 63 and 64 of the 1991 Act are consequential on the freedom of the parties to appoint an arbiter or arbiters under new section 61A of the 1991 Act.

Paragraph 35(a)

205. Section 68(1) of the 1991 Act defines sheep stock valuation. This amendment is consequential upon the extension of the jurisdiction of the Land Court to sheep stock valuations under section 59 of the Bill and the repeal of sections 69 and 70 of the 1991 Act.

Paragraph 35(b)

206. A new section 68(1A) is inserted into the 1991 Act which applies the provisions of section 68 of that Act to the Land Court’s determination of sheep stock valuations.

Paragraph 35(e)

207. Section 68(4) of the 1991 Act makes provision for the sheriff to set aside the arbiter’s award where there is a failure to comply with the requirements of subsections (2) and (3). The repeal of this section is consequential on new section 61A(6) of the 1991 Act which provides for a right of appeal from the arbiter to the Land Court on questions of law.

Paragraph 36

208. Section 69 of the 1991 Act makes provision for the submission of questions of law in sheep stock valuations from the arbiter to the sheriff. This section is repealed and is consequential on section 61A(6) of the 1991 Act, which provides for a right of appeal from the arbiter to the Land Court on questions of law. Section 70(1) of the 1991 Act makes provision for the determination of sheep stock valuations by the Land Court instead of the manner provided for in the lease. The repeal of this sub-section is consequential on section 59 of the
Bill. Section 70(2) of the 1991 Act makes provision for the basis on which such determinations are to be made. The repeal of this sub-section is consequential on the amendments made to section 68 of that Act.

Paragraph 37

209. Section 71 of the 1991 Act makes provision for the submission of certain documents relating to sheep stock valuations. This amendment is consequential on the new section 61(1) of the 1991 Act.

Paragraph 38

210. Section 72(b) of the 1991 Act contains a specific definition of "arbiter" for the purposes of sheep stock valuations. Its repeal is consequential on the definition of “arbiter” in new section 61A(3) of the 1991 Act. The repeal of section 72(c) of the 1991 Act is consequential on paragraphs 32-34 of that schedule to the Bill.

Paragraph 39

211. Section 80 of the 1991 Act makes provision for the determination of matters where the Scottish Ministers are a party to a lease. The repeal of section 80(2)(b) is consequential upon the abolition of the Scottish Ministers' role in relation to arbitration.

Paragraph 40

212. Schedule 7 to the 1991 Act sets out the procedure to be followed in arbitrations under section 61(1) of the 1991 Act. The repeal of Schedule 7 is consequential on the new arbitration procedure set out in the new section 61A of the 1991 Act.

Paragraph 42

213. Schedule 9 to the 1991 Act makes provision for the method of sheep stock valuation in relation to leases entered into after 6 November 1946 but before 1 December 1986. The amendments to paragraph 1 of schedule 9 are consequential on sections 59 and 60 of the Bill. Paragraph 4 of schedule 9 prescribes the method by which the Land Court is to determine the average price of certain stock in certain circumstances. It remains competent for the Land Court to determine such prices on the basis set out in paragraph 4, but only at the joint request of the parties. Where such a matter is submitted to the Court by one of the parties unilaterally, the valuation is to be carried out by the Court as valuer under paragraph 2 of Schedule 9.

Paragraph 43

214. Schedule 10 to the 1991 Act makes provision for the method of sheep stock valuation in relation to leases entered into on or after 1 December 1986. The amendments to paragraph 1 of schedule 10 are consequential on sections 59 and 60 of the Bill. Paragraph 4 of schedule 10 prescribes the method by which the Land Court is to determine the average price of certain stock in certain circumstances. It remains competent for the Land Court to determine such prices on the basis set out in paragraph 4, but only at the joint request of the parties. Where such a matter is submitted to the Court by one of the parties unilaterally, the valuation is to be carried out by the Court as valuer under paragraph 2 of Schedule 10.
Tribunals and Inquiries Act 1992 (c.53)

Paragraph 44

215. This amendment is consequential to repeal of section 64 and Schedule 7 of the 1991 Act by paragraphs 33 and 40 above. Schedule 1, Part 2, paragraph 46 to the 1992 Act made provision in relation to agricultural arbiters which is now obsolete.

Crofters (Scotland) Act 1993 (c.44)

Paragraph 45

216. Section 29(1) of the 1993 Act provides that a sub-tenant of a croft is not a 1991 Act tenant. Paragraph 45(a) extends this exclusion to SLDTs and LDTs.

217. Section 30(5) of the 1993 Act states that nothing in that Act shall affect the provisions of the 1991 Act in relation to payment to outgoing tenants of compensation for improvement. Paragraph 45(b) extends this to include this Bill as well as the 1991 Act.

218. Crofting landlords are permitted by paragraph 11 of Schedule 2 to the 1993 Act to enter onto a crofter’s land for a range of purposes. Paragraph 45(c) ensures that the crofter’s right to compensation for game damage in these circumstances relates to both the 1991 Act and the Bill. The reference to determination by arbitration is removed, given the universal jurisdiction that the Land Court is to acquire in agricultural holdings disputes.

Criminal Justice and Public Order Act 1994 (c.33)

Paragraph 46

219. Section 106 of the 1994 Act makes provision excluding the provisions of the 1991 Act from applying to leases granted by the Scottish Ministers in relation to contracted out prisons. This amendment extends the scope of the exclusion to LDTs and SLDTs.

Town and Country Planning (Scotland) Act 1995 (c.8)

Paragraph 47

220. Section 35 details notification requirements relating to applications for planning permission. The amendment applies these provisions to LDTs and SLDTs as they apply to 1991 Act tenancies.

Immigration and Asylum Act 1999 (c.33)

Paragraph 48

221. Section 149 of the 1999 Act makes provision excluding the provisions of the 1991 Act from applying to leases granted by the Secretary of State in relation to immigration detention centres. This amendment extends the scope of the exclusion to LDTs and SLDTs.
FINANCIAL MEMORANDUM

COSTS ON THE SCOTTISH ADMINISTRATION

Scottish Land Court

222. The legislative proposals should not give rise to new costs for the Scottish Administration, except perhaps in relation to some minor additional administrative costs borne by the Scottish Land Court which should have the administrative capacity required to handle the potential increase in workload.

223. The increase in workload is likely to result in an additional commitment for existing Scottish Courts resources, because the fee regime operated by the Land Court does not recover the Court’s full costs. Although it is difficult to assess precisely what these implications might be, it is estimated that the proposals might produce an annual increase of some 15-30 cases in the annual workload of the Land Court (which presently disposes of around 180 cases annually). The principal reasons for this increase are that:

- following the abolition of compulsory arbitration as a means of resolving disputes, some parties will prefer to apply to the Land Court to resolve future disputes rather than seek private arbitration; and
- there may be an initial increase in the volume of cases to test the new provisions, which should tail off over time as a body of caselaw is established.

224. Costs will begin to arise from 2003-04 and will be met from resources within the Justice Department budget available to the Land Court. The Land Court should be well-placed to take on the anticipated additional responsibilities from within these existing resources.

Legal Aid

225. Advice and assistance and civil legal aid are already available to those eligible for proceedings in the Scottish Land Court. Eligibility for proceedings under the legislation will be assessed according to the normal statutory criteria. It is estimated that the additional costs to the Legal Aid Fund under the Bill, once demand and take up have become fully established, should not exceed £22,500 per annum (based on an average of 3 cases per annum at £7,500 each). For comparison purposes, civil legal aid has been paid on 2 occasions in the last year in relation to cases before the Land Court. These costs are capable of being met from resources that are already budgeted for allocation to the Fund. However, the number of cases eligible for legal aid will tend to vary from year to year. Although not expected, it is possible that the sum of £22,500 might be exceeded on occasion."

COSTS ON LOCAL AUTHORITIES

226. It is not anticipated that the provisions should impose any additional costs on Local Authorities.
These documents relate to the Agricultural Holdings (Scotland) Bill (SP Bill 62) as introduced in the Scottish Parliament on 16 September 2002

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

Landowners

Tenants’ rights to diversify

227. The Bill will give new rights for tenants under 1991 Act tenancies and LDTs to diversify, unless the landlord objects on the basis of one or more grounds set out in the Bill. Legal costs will arise where a tenant under a 1991 Act tenancy or LDT challenges the basis for any refusal by the landlord to consent to their proposed diversification. The Executive cannot predict how often this might happen. In each case, the costs for each side would include their own legal fees and a share of the Scottish Land Court fees. While the level of Court fees will depend on the complexity and circumstances of the case, and the fee regime applying at the time, total fees might typically be in the region of £500-£1,000.

Ancillary measures to strengthen the position of tenants

228. The Bill gives greater protection to 1991 Act tenants who wish to remain on the land, where this is consistent with the prevention of further depopulation of rural areas. Where the landlord wishes to resume the land for a non-agricultural purpose and that purpose does not require planning permission, the Bill provides the tenant with a right to submit a counter-notice to the Land Court. Where the landlord wishes to resume the land for a non-agricultural purpose and that purpose requires approval from the Scottish Land Court but not planning permission, then the Bill requires the Land Court to consider the social and economic consequences of resumption before agreeing to it.

229. Any costs to a landlord’s business from these proposals would only arise if they intended resuming let land under a 1991 Act tenancy for a non-agricultural use (LDTs and SLDTs will not be subject to the protections). The proposals will not prevent landlords from doing so where it would serve the community interest. Costs would arise only if tenants issued a counter-notice. In these cases, this would comprise the landlord’s legal costs, plus their share of the Land Court fees (likely to total £500 to £1,000). There would also be a corresponding delay while the Land Court considered and determined upon the counter-notice. Depending on the purpose of the resumption, this may or may not have an associated financial cost. The Executive does not hold quantitative evidence, but believe these scenarios would not arise frequently and would further diminish over time.

Pre-emptive right to buy

230. The Bill will provide tenants under a 1991 Act tenancy with a pre-emptive right to buy the landlord’s interest in the land, which would be triggered when the landlord sold land including the holding. A limited period of delay will be associated with the statutory right, to allow time for bids from tenant to be valued and concluded. This process could result in modest additional costs to the selling landlord, if the delay resulted in deferment of the receipt of sale proceeds, particularly in a falling market, or if they chose to instruct an adviser to submit evidence to the valuer or through deferment of the receipt of sale proceeds.

231. Tenants will be expected to meet the costs of valuation. However, provision is made at section 32(6) of the Bill to place the cost burden upon the landlord in instances where they...
decided to withdraw from the sale and the tenants had already fulfilled their obligations as part of the right-to-buy process.

232. It is proposed that sale and purchase under the statutory right should be at open market value on the basis of a 1991 Act tenancy sale at present. An independent valuer would calculate this by assessing what the landlord and tenant would reasonably have agreed upon had they entered into voluntary negotiations. Instances might arise where a third party may exist who would be prepared to pay above market value for the land. This situation also arises with any wider estate that is also being sold with the tenancy. The valuation mechanism takes this into account in determining a value to be paid (section 31 refers). However, instances might occasionally arise where this did not fully reflect the additional premium over market value that a third party might be prepared to pay for the land because of its significance to them.

Tenants

233. The Bill confers a range of new rights for tenant farmers, subject to appropriate protections for landlords. Examples include a pre-emptive right for tenants to purchase the landlord’s interest in their holding, a right for tenants under a 1991 Act tenancy and LDT tenants to apply to the Land Court for an order overturning an objection by the landlord to their proposed diversification and a right for tenants to apply to the Land Court for an order overcoming an attempt by the landlord to resume land in certain circumstances.

234. Where tenants decide to exercise these new rights, they are liable to incur certain costs in exercising them. Eligible tenants will incur valuation costs if they choose to exercise their pre-emptive right to buy. Costs will also arise if tenants take legal advice with a view to raising actions before the Land Court. The nature of such costs will vary depending on the circumstances of each case.

EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

235. On 13 September 2002, the Minister for Environment and Rural Development (Ross Finnie) made the following statement:

“In my view, the provisions of the Agricultural Holdings (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

236. On 12 September 2002, the Presiding Officer (Sir David Steel) made the following statement:

“In my view, the provisions of the Agricultural Holdings (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”