Correspondence from Henderson’s Surveyors

Agricultural Remedial Order

I note the Minister’s letter to the Committee of 20 January 2016. It is appropriate that points are clarified for the Committee:

- Despite repeated efforts Scottish Government will not participate in the mediation process AGREED between Government, Tenants, Landlord representatives, the appointed Mediator, SNFU and SAAVA to address the compensation issue and Government liability.

- Tenants’ claims were lodged in March 2015, as requested, per the terms outlined in the Minister’s letter to the Committee on 5 December 2014. Government sought claims as a prerequisite to mediation on the same.

- To date the Government have refused to entertain/discuss any aspect of any part of any of the Tenants’ claims. This includes Mr Stoddart’s claim despite the clear direction of the Committee as at 28 October 2015.

- Government only re-engaged in dialogue with the eight Tenants, through this office, when directed to do so by the intervention of the Committee.

- To articulate the statutory waygoing claim between Landlord and Tenant is a separate and distinct claim from Government. This will now be necessitated since the Government failures and delays have now culminated in ALL eight Tenants being served Notices to Quit or termination dates set via Court process per the Remedial Order 2014. The Andrew Stoddart situation will now be repeated a further seven times.

The clear fact acknowledged by all stakeholders, Government and the RACCE was Tenants were not to have to face litigation to secure compensation for the consequences of the Remedial Order. The Government have blocked and frustrated all reasoned efforts at resolution to this “sorry mess” but are obliged to address per the Supreme Court judgement. Whilst the defect may stem from an earlier administration nevertheless the failure to see fairness and justice now applied is scandalous.

Scotland as a nation has embarked on an ambitious and far reaching programme of social change and self-governance. The agenda before the Committee is testament to that fact.

The Scottish Government Legal Directorate and their apparent self-appointed agenda and controlling brief runs in complete contradiction to the aspirations and delivery of supporting fair legislation. If they are not respectful or fit to deliver the directions from you as a Parliamentary Committee in this matter what hope do we have for emerging legislation?

The actions of the previous administration in addressing the clear abuse by Landlord was recognised by MSPs across the political spectrum. The failure and blame of the original legislation rests with the legal advice at the time. Please do not let the
actions of the Scottish Government Legal Directorate undermine the constructive work of this Committee and by definition Parliament.

In this specific case the Legal Directorate are seeking to bury their defects and failings by forcing Tenants to pursue legal action to obtain their right to compensation let alone compensation. That is completely contrary to the stated position that Tenants and their families already facing the emotional distress of losing their homes and businesses would not be compelled to go to Court.

Parliament is the last hope for these families. We implore you direct that Parliament bring forward at the earliest opportunity an addendum to the Remedial Order 2014 to direct:

1. That the right for affected Tenants to compensation (as envisaged) is made clear; and

2. In the event of dispute on the quantum Tenants may refer the matter to the Lands Tribunal for Scotland for determination.

That sadly is now the only option open if litigation is to be avoided.

Kind regards.

Yours sincerely

E C HENDERSON