Mr Edward Mountain  
Convener  
Rural Economy and Connectivity Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
EH99 1SP

Your ref: 13 October 2016  
Our ref: 01 November 2016

Dear Edward,

AGRICULTURAL REMEDIAL ORDER 2014

Thank you for your letter of 13 October 2016 regarding the correspondence received by the Rural Economy and Connectivity Committee from Hendersons Surveyors, on behalf, of the eight tenant farming families currently engaged in live litigation against the Scottish Government.

As indicated previously in correspondence to the Committee, the matters to which Mr Hendersons’s correspondence refers are currently the subject of live litigation and, as such, members will appreciate that it is difficult for me to respond on specific issues that pertain to the case including any discussion around compensation for individuals.

With regard to mediation, over the past two years the Scottish Government has offered parties the opportunity to go to mediation and during this period only one set of landlords and tenants chose to utilise this service. The contract that was in place was initially entered into in June 2014 and was extended until June 2016. Due to Scottish Government procurement regulations, there was no additional option to extend the contract for a further period of time. Accordingly, that contract has now ended and a new mediation contract is currently out to tender, with the expectation that a new mediator will be available for the use of the remaining parties from the 31 October 2016 onwards. This contract will run until September 2018.

The Scottish Government is committed to facilitating and funding this mediation service to provide a forum in which those landlords and tenants who wish to engage with each other can explore resolution to any issues in dispute between them. I would encourage any who experience points of contention to do so. For the avoidance of any doubt, I can confirm that, as before, the Scottish Government will not be a party to the mediation and therefore we will be unaware of the final outcome of mediation between the two parties.

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With regard to the case referred to by Mr Henderson, the Scottish Government has written to all parties encouraging them to take up the opportunity to engage in the mediation process and my officials have reiterated the availability of this facility to Mr Henderson.

We have also made parties aware of the funding available to them for the costs associated with going to mediation.

I can confirm that the Scottish Government is providing funding to both tenants and landlords for costs associated with the mediation up to £13,000 (inc of VAT) per party. This sum covers costs associated with preparing for and undertaking mediation and the cost of a valuer for each party. In addition, the Scottish Government is paying for the costs of the mediator, the venue, and costs for an independent valuer up to a set amount (to be appointed on a case by case basis when deemed necessary by the appointed mediator).

I trust the Committee will find this information helpful.

FERGUS EWING