



The Scottish Parliament
Pàrlamaid na h-Alba

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

EC Henderson
Henderson's Chartered Surveyors
East Netherton
Milnathort
Kinross KY13 0SB

c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP

Tel: (0131) 348 5221

Your ref: ECH/AB

e-mail:

Via email only

racce.committee@scottish.parliament.uk

5 February 2016

Dear Mr Henderson,

Re: Correspondence of 19 and 26 January 2016 on the Agricultural Holdings (Scotland) Act 2003 Remedial Order 2014 – mediation and compensation processes

Thank you for your letters of 19 and 26 January^{1,2} regarding progress in the mediation and compensation process emanating from the Agricultural Holdings (Scotland) Act 2003 Remedial Order 2014. I, and the other Members of the Rural Affairs, Climate Change and Environment Committee read your letters with some concern.

As you know, the Committee has taken a very serious view of the situation in which your clients find themselves with relation to the 2014 Remedial Order. The Committee has sought to actively engage with the issue in order to assist in finding an amicable resolution to the situation.

As you will be aware, the current Session of the Parliament is scheduled to dissolve on Thursday 24 March, in advance of the forthcoming Scottish Parliament elections. At this time all committees will cease to exist and MSPs will cease to hold office. Consequently, there is very little time available to the Committee to undertake any further substantial scrutiny in terms of the 2014 Remedial Order. Nevertheless, individual Members of the Committee continue to engage actively and regularly with the Cabinet Secretary for Rural Affairs, Food and Environment on the issues faced by your clients.

¹ Correspondence from Henderson's Chartered Surveyors 19 January 2016: http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/20160119_Hendersons_re_ag_mediation_FINAL.pdf

² Correspondence from Henderson's Chartered Surveyors 26 January 2016: http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/20160126_Hendersons_Surveyors.pdf

In your letter of 26 January you make reference to actions you wish to see the Committee undertake in light of recent events—

“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.”*

For the benefit and understanding of everyone involved, I think it is extremely important to make clear that the options available to a parliamentary committee with respect to the issues raised by the 2014 Remedial Order are very limited. For example, neither the Committee, nor the wider Parliament, can make amendments to a Ministerial Order. Primary legislation reserves the right to make and amend such orders only to the Scottish Ministers (i.e. the Government of the day).

Therefore, the only mechanism available to amend the 2014 Remedial Order would be for the Scottish Ministers to introduce an amending order into the Parliament. This would also be the only method of acting on the request you make relating to the referral of cases to the Land Tribunal for Scotland.

Only if the Scottish Ministers were to make and lay such an amending order before the Parliament would it then be for the Parliament, and any relevant committee, to scrutinise and approve, or reject, such an order.³

I wish to reassure you, and your clients, that the Committee continues to consider this issue with the utmost seriousness. Indeed, the Committee is in receipt of regular updates from the Cabinet Secretary on this issue of the 2014 Remedial Order, and it considers these updates carefully. Members of the Committee also actively seek to remain closely informed of developments.

The Committee is currently finalising preparations for its legacy report to its successor committee in the next Session of the Parliament. This is the means by which the Committee can highlight those issues which we believe are of vital importance, and need to be considered as part of the successor committee's work programme. I assure you that the problems faced by your clients as a result of the 2014 Remedial Order will feature in the Committee's legacy report.

Of course, while it will be for the successor committee to decide its own work programme, I would expect that the committee would consider these issues with the same seriousness with which we have.

This letter will be published on the Committee's website and copied to the Cabinet Secretary, for his information.

³ The parliamentary procedure to which any ministerial order is subject is determined by the piece of primary legislation under which the order is made.

Yours sincerely

A handwritten signature in black ink that reads "Rob Gibson". The signature is written in a cursive style with a horizontal line at the end.

Rob Gibson MSP
Convener

CC: Richard Lochhead MSP, Cabinet Secretary for Rural Affairs, Food and Environment