AGRICULTURAL TENANCIES IN THE NORTH-EAST OF SCOTLAND: TIME FOR REFORM?

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The aim of this dissertation is to investigate how the Agricultural Holdings (Scotland) Act 2003 and Land Reform (Scotland) Act 2016 have affected land tenure in the North-east of Scotland.

Both pieces of legislation were designed to support the Scottish Government's primary aim of encouraging landowners to bring forward more land onto the letting market. It was found that the introduction of various forms of fixed term tenancies have been successful in achieving this. These fixed term agreements provided landowners with the option of leasing land for a defined period of time, which was something that was not a possibility prior to the introduction of the 2003 act. However, the introduction of the pre-emptive right to buy that was included in this bill was found to have completely undermined the aforementioned policy aim. Thus, it seems the Scottish Government failed to understand that in order to encourage landowners to bring forward more land onto the letting market they needed to regain their trust. Furthermore, on the ground, the inclusion of this measure for 1991 Act tenants appeared to be unnecessary, as if the landowner was to sell, it would be unlikely that it would be sold over the head of the sitting tenant, as they would be in the best position to pay the highest price due to their security over tenure.

A further Scottish Government goal was to balance the rights of both landowner and tenant. It was found that legislation has swung too far in favour of tenants. Not only was this exemplified by the implementation of the pre-emptive right to buy but also in later reforms included in the 2016 act, such as the relinquishment and assignation act and the extension of succession right for tenants. Both of these measures were intended to encourage a new lease of life into the tenanted sector by providing more opportunities for new entrants to lease land. Despite these measures being successful in providing support for tenant farmers who wish to retire whilst enabling landowners to retrieve vacant possession of their land, not much success has been seen in regards to increasing opportunities for new entrants.