

**CENTRAL ASSOCIATION OF AGRICULTURAL VALUERS  
SCOTTISH AGRICULTURAL ARBITERS AND VALUERS ASSOCIATION**

**THE EIGHTH SCOTTISH  
AGRICULTURAL LAND OCCUPATION SURVEY  
FOR THE YEAR TO 30<sup>TH</sup> NOVEMBER 2019**

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## **1. Introduction**

1.1 This is the eighth annual Agricultural Land Occupation Survey to be held in Scotland. It has been conducted by the CAAV and SAAVA by circulating members and others with forms for information to be returned on land that had been let in 2019, land where tenancies ended in 2019 and on other arrangements such as contract farming and grazing agreements that had been established in the year. It has not been used to monitor crofting. We are grateful to all who have helped with this.

1.2 This report reviews the statistics yielded by the Survey and offers an initial analysis and commentary for discussion and review. As the eighth such Scottish Survey, there can now be some comparison with the figures from the previous Surveys which are retained in brackets where relevant.

1.3 It has inevitably taken some time for a sufficient history of data to allow conclusions as to trends, a task that has been complicated by market reactions to the United Kingdom's then protracted and prospective departure for the European Union as well as the background of both the discussion of and changes to agricultural land tenure and the uncertainty about and the reactions to the implementation of the Basic Payment System with their impact, perhaps particularly on arrangements in the years 2014 to 2016.

1.4 This Survey, like the CAAV's Agricultural Land Occupation Surveys for England and Wales since 1977, primarily monitors changes in occupation and so the flows in and out of the tenanted sector and the nature of those changes, rather than the overall size of the let sector. Thus, the analysis is undertaken primarily in terms of the units let or not let as each represents a decision in the relevant circumstances. Overall acreages are given where this may lend perspective. That is particularly important in Scotland where the large acreages of some hill units can affect the appearance of the figures.

1.5 This Survey covers a total of 257 (previous years in sequence back from 2018 - 128, 142, 176, 107, 53, 132, 203) units on 26,023 (38,665, 35,179, 62,201, 46,279, 25,424, 107,254, 42,820) acres with changes involving decisions about the letting or occupation of agricultural land in Scotland in the year to November 30<sup>th</sup> 2019, so including the main late November tenancy date. As some units in Scotland can cover very large areas, changes in acreage may be less significant as a barometer of decisions than changes in the numbers of units.

1.6 The units reported in the Survey comprise:

- 45 (26, 63, 25, 40, 19, 57, 87) where tenancies were reported let in the year, covering 7,124 (8,564, 20,517, 16,673, 9,234, 5,194, 15,352, 23,183) acres. 4 (7) were MLDTs. By previous tenure:
  - 24 (19, 41, 18, 27) were of units where a tenancy had ended
  - 16 (3, 10, 3, 11) followed grazing arrangements apparently formalising grazing arrangements as grazing tenancies
  - 0 (0, 0, 1, 0) followed a contract farming arrangement
  - 5 (4, 12) moving from in hand or newly acquired
- 0 (0, 1, 0, 9, 11, 9, 54) successions to existing tenancies (had been 81 acres in 2017 (0, 2,792, 1,525, 3,447, 32,766))

- 8 (3, 8, 33, 23, 7, 22, 23) tenancies that ended and the land was reported as not re-let covering 785 (712, 3,050, 27,563, 18,137, 1,325, 9,995, 39,911) acres of which:
  - 2 (2, 4, 1, 15, 3, 9, 9) were taken to farm in hand
  - 3 (0, 2, 7, 4, 1, 6, 9) went to grazing agreements
  - 1 (1, 1, 3, 3, 0, 3, 4) was put on a contract farming agreement
  - 1 (0, 0, 10, 0, 3, 1, 0) were sold
  - 1 (0 1, 11, 1, 0, 1, 0) was sold to the sitting tenant
  - 0 (0, 0, 0, 0, 2, 0) were compulsorily purchased
  - 0 (0. 1, 0, 0, 0, 1) went to an unknown arrangement
  - 4 went to forestry
- 10 (6, 2, 7, 8, 8, 16) further new or renewed contract farming agreements covering 1,788 (5,961, 1,700, 9,554, 6,485, 17,051, 2,545, 8,682) acres
- 89 (90, 65, 114, 8, 34, 23) further new or renewed grazing agreements covering 15,962 (23,150, 9,217, 8,004, 9,031, 330, 11,377, 2,712) acres.
- 1 (2) were on previous grazing arrangements taken in hand (23 acres) and none (0, 1) were sold
- 2 grazing arrangements went to forestry on 239 acres
- 0 (1) moved from contract farming to a grazing arrangement

1.7 Again, no units were reported as being put onto a share farming agreement.

1.8 Emphasising a theme of recent years that bare land lettings are now predominant in Scotland, it is striking that the entire Survey only records 4 units, totalling 1,477 acres having a house with 252 being only bare land.

## **2. COMPARISON AND PERSPECTIVE**

2.1 Throughout this analysis, it has to be understood that any single year's Survey can only be a snapshot. Trends will only appear as successive Surveys are held. In any one year, there may be some apparently striking results which later Surveys would put into perspective.

2.2 Comparison is made with the results of the two most recent previous Scottish Surveys for 2017 and 2018 and also those from the CAAV's Agricultural Land Occupation Survey for England and Wales. That Survey has been conducted since 1977 and the 43<sup>rd</sup> edition also covered 2018. Where relevant, comparative figures are given to aid discussion of what might otherwise appear plain figures.

2.3 Reference can be made to the overall stocks of tenancies and tenanted land published by the Scottish Government.

2.4 In considering the relevance of comparison with England and Wales and the issues that bear on lettings decisions:

- Scotland shares a common taxation regime with England and Wales – capital taxation is often important to private owners' decisions and its pressures are the same throughout Great Britain
- the EU's direct payments regime (previously the Single Payment Scheme and now the Basic Payment Scheme) applied throughout the United Kingdom in 2019 but has been applied differently in each territory of the United Kingdom. In 2015, Scotland implemented its regime in a more complex way than elsewhere. It did though move, as required by the EU, to the same area basis for allocating entitlements as in the rest of the UK. That makes matters more similar to the position in England and elsewhere, especially in Payment Region 1 with its full allocation excluding many "naked" acres with consequent greater effects on land occupation. Scotland's introduction of a temporary siphon on without-land transfers of entitlements has had a bearing on land occupation decisions within a larger uncertainty about the operation of BPS in Scotland. 2019 was the fifth year of the new regime with entitlements either allocated or not on the basis of 2015 though its implementation has been problematic with much use of bridging loans. Area payment values have now equalised within each of the three payment regions.
- Scotland is in the same markets for agricultural inputs and produce as England and Wales – any sense of farm profits improving or deteriorating might at the margin be expected to lead to greater or lesser interest by owners in farming directly or through contractors equally across the United Kingdom.
- the new Modern Limited Duration Tenancy (MLDT) was introduced under the Land Reform (Scotland) Act 2016 for 2018. Despite the change of label and the limited opportunity for an initial 5 year break clause, this is not seen as a substantive change.
- there may be differences in the patterns of land holding and farming structures and practice.
- there are differences in both the background land law and agricultural tenancy law, with the further point of the Scottish regime being significantly more complex.

- the unfolding of land reform legislation (including the background sensitivity to discussion of the possibility of a tenant's absolute right to buy, even though it is not in the recent legislation) is a specifically Scottish feature within a climate of debate that does not apply elsewhere in the United Kingdom.
- there may be other influences at work.

Only this sort of analysis will begin to engage with those questions.

### **3. OVERVIEW, KEY POINTS AND QUESTIONS**

**3.1 Overview** – Now beyond the distortions created by the move to the Basic Payment Scheme and the fresh allocation of entitlements in Scotland, 2019 again saw a very low level of activity with a let sector that only appears to be sustained by the incentive that Basic Payment gives for claimants to stay in place, doing little for the vibrancy or economic health of farming. That is all the more concerning with the need for agriculture to rise to the challenge of productivity and competitiveness made more urgent by Brexit.

**3.2** Within the let sector, bare land lettings are now very much in the ascendant. Only three of the units let in 2019 had a house; a fourth tenancy of a unit with house was taken in hand after a negotiated surrender.

**3.3** With inheriting owner-occupiers and the continuing scale and strength of the seasonal grass lettings market as a major means for flexibility, Scotland could appear to be more closely resembling Ireland as a country of short-term non-tenancy arrangements between owners and farmers. In Ireland, the problems of that model are now leading to more pressure there for tenancies.

**3.4** With the political risks seen in letting in Scotland, owners withdrawing from farming are often more comfortable with non-tenancy arrangements for a complex of motives including a closer sense of control over their land, consistency with retaining a business status, less demand for investment, taxation issues and a reluctance to be seen as a landlord. Some aspects of that are summarised by the comment of the Scottish Government's Agricultural Holdings Law Review Group describing letting as being seen now as a high risk, low reward activity. That seems unlikely to attract owner-occupier farmers to let their land where they become weary of continuing farming.

**3.5 After a long period of decline, this Survey follows those of 2017 and 2018 in reporting a rough balance between land flowing into the let sector and land leaving it, albeit a marginal loss with very small volumes of land on each side, illustrating the low levels of activity in this sector. The net gain of 2,466 acres** (see Table 4) following the net losses of 78 acres in 2018 and 289 acres in 2017 compares with a net loss in 2016 of almost 28,000 acres and about 12,000 acres in 2015, just over 1,000 acres in 2014, almost 10,000 acres in 2013 and over 37,000 acres in 2012.

**3.6** Overall, the 2017, 2018 and 2019 Surveys are consistent with recent figures from the Scottish June Census Surveys which have recorded a levelling out of the decline in the scale of the let sector. While the June census for 2018 suggested that the fall may have resumed, that for 2019 again suggests some stability.

**3.7 Within that, the 1991 Act (AHA) sector continues to erode with new lettings being predominantly bare land and often let for short terms.** The Scottish June Census records:

- a 41 per cent fall in the number of 1991 Act tenancies over the last 11 years, from 7,444 in 2009 to 4,403 in 2019
- the area under 1991 Act tenancies falling by 22 per cent over the last 6 years, from 949,527 hectares in 2014 to 738,774 in 2019.

The area now under 2003 Act tenancies is half that of the 1991 Act sector, while in England the area under FBTs probably now exceed that under the 1986 Act.

3.8 **At 66%, 2019 saw a slight decline in the number of the let holdings that fell vacant being reported as re-let (83%, 84%) but the proportion of area concerned was roughly the same as in 2018 and 2017 at 81% (87%, 87%) 35%.** In 2016, the proportion of the number and area had both fallen from a bare majority to 35% which was a noticeable break from the historic pattern which saw those landowners who were still landlords as content with tenancies; neither legislation nor taxation was generally sufficient to dissuade them.

3.9 However and while the 1991 Act sector erodes, relatively little use is made of the tenancies created by the 2003 and 2016 Acts. The Scottish Government reports that 1991 Act tenancies still form 65% of the let sector in Scotland (excluding crofting) by contrast to England where 1986 Act tenancies will soon be less than half. With that slow pace of change, little new land enters the let sector – 3,564 acres in 2019.

3.10 **The average size of a new tenancy was a reduced 183 (302, 325, 663, 231, 273, 279, 266) acres**, even with two substantial letting totalling 3,609 acres with more, smaller bare land lettings being reported. The higher figure for 2016 reflected a small number of much larger units alongside smaller lettings.

3.11 **The average length of a new tenancy was a reduced 3.57 (4.56, 3.68, 7.49, 5.47, 5.99, 6.69, 6.66) years.**

3.12 **Unusually, the 2019 Survey shows no pattern of length of tenancy by type of previous tenure, perhaps confirming that this Survey is reporting on what has become a residual market with little activity.**

3.13 **93% (81%, 78%, 68%, 65%) of lettings in 2019 were of bare land and 7% (19%, 12%, 24%, 22%) included a dwelling.** While it has been conventional to think of Scottish agricultural holdings as fully equipped, the results in this Survey continue to highlight the growing dominance of bare land units in the number of new lettings. That appears to be a significant point for the larger policy debate as it shows a persistent majority of lettings to be of ancillary land, not of self-contained farms or core steadings. That appears to be a natural part of the restructuring for any industry under economic pressure and it will not be readily reversed.

3.14 **However, the small fraction and number of newly let units that included a house were distinctively larger than other lettings with an average size of 456 (1,058, 667, 1,535) acres** compared with the average bare land letting of 161 (123, 267, 325) acres.

3.15 That trend towards bare land lettings could in future be further encouraged by the growing policy interest in the condition of agricultural housing as seen in the commitment made in the 2016 debates on the Land Reform (Scotland) Bill by the then Cabinet Secretary to look at this further in the new Parliament and the subsequent housing consultation. Where this requires significant expenditure on farmhouses and cottages alongside the growing expectations of energy efficiency, it may prompt a commercial review of their positions by both landlords and tenants.

3.16 In some contrast to 2016's unusual nil figure, **11 lettings were reported as being to new entrants (5, 4).** These accounted for 65% of the small number of lettings where the farmer changed (35%, 20%, 0%, 50%, 20%, 18%, 23%). However, it is noted that 9 of

these lettings were under the Scottish Government's Farming Opportunities for New Entrants (FONE) programme. The 2015 figure may have been influenced by the particular incentives in the new BPS for new entrants, offering both access to entitlements from the national reserve and a top up to payments for those who qualify as young farmers, reducing the possible applicants for 2016. The CAAV's Surveys for England and Wales also show that new entrants generally take some 25-30% of those lettings that are not re-lettings to the previous tenant. The figures can suggest an openness to letting to new entrants such that, were there more lettings, there would be more opportunities for them as well as for existing farmers. The decline in lettings has reduced that opportunity. No lettings to new entrants included a house. The overall average length of lettings to new entrants was 5.13 years (7.62, (7.5, -, 11, 11.25, 10.66, 9.8) but the average length of the smaller number of private lettings was 7.5 years. The average area let was 317 acres (120, 822, -, 680, 730, 545, 351).

3.17 These results again seem to confirm the previous analysis that some aspects of 2016's figures were affected by the ways in which farmers and landowners had approached 2015 as the year when Basic Payment entitlements would be allocated, perhaps especially in Scotland with its uncertainties and complexities, as well as perhaps by the extended uncertainty about the system and its then siphon on without-land entitlement transfers.

**3.18 Questions** – While recognising that each year's Survey is only a snapshot, this analysis raises questions

- if the let sector is to expand, that is most obviously achieved by attracting private owners who do not currently let to do so. With the historic move to owner occupation in the twentieth century, what would now encourage a significant number of weary or retiring farmers to let their land rather than remain farming, sell it or find other arrangements with other farmers?
- are owners who were willing to let now more reluctant? If so, why?
- what are the consequences of an increasing fraction of bare land holdings?
- with the general interest in encouraging new entrants, how is this done within a shrinking sector when existing farmers (including recent new entrants) also need expansion opportunities?

**3.19 One Estate's View** - With estates still responsible for a significant fraction of lettings in Scotland, it has seemed worth noting the comments for one estate as a long-term landlord. With no changes in lettings to report for 2019, the views were offered that:

- we are potentially on the edge of some big changes in the tenancy sector locally
- our tenants have aged and those I have had conversations with have no obvious successors who wish to take on the tenancy
- over half the tenants, all on 1991 Act tenancies, have no obvious or likely successor
- almost all the remaining tenancies already have a younger generation active in the business
- the combination of the tenants' Amnesty and Brexit may be putting the future into sharper focus for these tenants, probably prompting them to open conversations about leaving or giving up parts of tenancies
- there is a demand for more grazing with no one wanting to give up grazing currently taken.

**3.20 Looking Ahead** – If that perspective is remotely representative, it points to the potential for significant issues for the near future of the 1991 Act sector with a lack of successors and expected economic pressures that will require existing tenants and successors

to operate effective businesses. The answers to the question of what happens when tenancies end is likely to be a function of how attractive letting might be as an option in Scotland, the quality of potential farmers whatever the arrangement with an owner and the alternatives such as forestry or measures in response to climate change. The same challenges will also face retiring owner-occupier farmers who consider letting some or all of their land.

3.21 Some will, no doubt, “hunker down” to retain a home but it could become increasingly challenging for the holding to provide an income under such an approach. The relinquishment and assignation option that is yet to be implemented under the Land Reform (Scotland) Act might not offer as much money to the outgoer as may be needed or imagined. Where the landlord is willing to make a relinquishment payment, it will for any given land quality and location, in part, reflect the area of the holding in question and, in part, the remaining life expectancy of the tenant. Thus, payments will be less to older tenants on smaller holdings than to younger tenants on larger holdings.

3.22 Providing positive answers for that would be aided by a framework of policy and land tenure that is more supportive of a business-like approach and that enables the changes that create opportunities for such businesses.

## 4. NEW LETTINGS

4.1 This section reviews the 45 tenancies reported as having been created in 2019 (26, 63 in 2017, 25 in 2016, 40 in 2015, 19 in 2014, 57 in 2013, and 87 in 2012).

4.2 **Type of Letting** – This is reviewed below when considering the lengths of the tenancies granted but, predominantly shorter term and bare land, they range from 1 to 15 years. Of the 45 lettings, 4 (7) – 9% (27%) - were MLDTs (this form of tenancy having superseded the LDT from 30<sup>th</sup> November 2017, though with little substantive difference).

4.3 **By Type of Owner** – Even with more activity by transitional institutions and government bodies recorded for 2019, the fundamental role of private landowners in letting farmland is again demonstrated. 22 of the 45 lettings were by private owners, 1 by a financial institution and 22 by a combination of traditional institutions and government bodies. In 2018, 24 of the 26 lettings were let by private owners; in 2017, 59 of the 63 lettings were let by private owners and 3 by a traditional institution. In 2016, 24 of the 25 new tenancies were let by private landowners and just one by a traditional institution. In 2015, 36 of the 40 units were owned by private owners and two each by financial institutions and traditional institutions. In 2014, lettings were only by private owners and in 2013, 50 of the 57 lettings were by private owners.

### 4.4 Where Have the New Tenancies Come From?

4.4.1 This looks at the units that were let in the Survey period by the way in which that land had previously been occupied, whether let (and, if so, on which sort of tenancy), previously in hand or newly bought or on a contracting or grazing arrangement

**Table 1 - Previous Tenure of the Land that was Let in 2019**

**Comparison with 2018 Survey**

	2019		2018	
1991 Act	0	}	1	4% }
1991 Act Ltd Partnership	1	2% } 2%	3	12% } 15%
LDT	4	9%	1	4%
SLDT	19	42%	14	54%
Small Landholders	0		0	
Grazing Arrangement	16	36%	3	12%
Contract Farming	0		0	
Vacant	5	11%	4	15%

**Table 2 - Acreages of New Units Let by Previous Tenure**

	2019		2018	
AHA	0}		91}	
AHA LP	1,000}	1,000	2,126}	2,217
LDT	1,046		451	
SLDT	1,503		4,857	
Grazing	612		261	

Contract Farming	0		0	
Vacant	5,997		778	

	2017		2016		2015	
AHA	8,833}		3,462}		1,825}	
AHA LP	193}	9,026	1,065}	4,527	792}	2,617
LDT	317		6,140		2,437	
SDLT	8,413		3,967		1,769	
Grazing	200		687		1,089	
Contract Farming	0		0			
Vacant	2,561					

4.4.2 As in 2017 and 2018, some units are reported to have been let when having not been let before – 5 in 2019, 4 in 2018 and 12 in 2017. At 11% (15%, 19%), that reverts to figures seen in the pre-BPS Surveys for 2013 and 2012 (5%, 2.5%, 5%, 20%, 14%).

4.4.3 In looking at that data series, land previously let on LDTs could have become available for re-letting in very recent years as they were only first available under the 2003 Act.

4.4.4 42 (21, 46) of the 45 (26, 60) lettings for which fixed equipment was known were bare land. At 93% (81%, 77%) of decisions this again shows the decline in the letting of equipped units. Covering 1,367 (2,576, 12,291) acres, they accounted for 19 (33, 60) per cent of the let area as the 3 lettings of holdings with houses included 1 of 1,000 acres. These also include a letting of a former grazing arrangement with a house for a year.

4.4.5 Comparison with England and Wales show they have had a much higher level of short term activity, perhaps as the limited Scottish use of the new forms of tenancy (SLDT, LDT and the new MLDT) contrasts with the wide use of FBTs in England and Wales. That has seen a smaller volume of shorter term lettings develop and then lead to new tenancies as they are re-let. The re-letting of land on FBTs is the largest part of the English market in a way that has not developed in Scotland to the same extent, even for SLDTs.

4.4.6 However, it appears that it is now a confirmed feature of the Scottish agricultural lettings market, as in England and Wales. Experience shows that bare land is more likely to be let for shorter terms and so, in Scotland on SLDTs as well as grazing tenancies. One impression from the Survey data is that there has been some formalisation of many grazing arrangements as grazing tenancies, by definition with a break after each season/year even with an expectation that these may be repeated indefinitely. Nonetheless, they are basically seasonal agreements. In practice, these may be indistinguishable from grazing arrangements and it will depend on their terms and the facts of the case whether the owner or the grazier is claiming BPS.

## 5. TENANCIES THAT ENDED

5.1 This section looks at those units where a tenancy ended in 2019 and records whether it was re-let (and, if so, in what way) or taken in hand, put to a contract farming agreement or to a grazing arrangement.

**Table 3 – Tenancies that Ended in 2019  
1991 Act (including Limited Partnerships) and LDTs and SLDTs**

Number	Area				
Total	36				
Re-let	24	66%	4,615	81%	
Sold	2	6%	227	4%	
Sold to tenant	1	3%	9	-	
In hand	2	6%	126	2%	
CF	-				
Grazing	3	8%	163	3%	
Forestry	4	11%	573	10%	
D/K	-				

**Comparison with 2016, 2017 and 2018**

Number	2018	2017	2016
Total	23	49	51
Re-let	19	83%	41
Sold	0	-	10
Sold to tenant	0	1	11
In hand	2	9%	4
CF	2	9%	1
Grazing	-	2	8%
D/K	-		1

  

Area	2018	2017	2016
Total	8,642	23,567	44,165
Re-let	7,525	87%	20,517
Sold		87%	15,346
Sold to tenant		-	35%
In hand	397	5%	317
CF	720	8%	1%
Grazing		2,436	2,082
D/K		1%	51%
		43	606
			887
			1,379
			2%
			3%

5.2 Reviewing that data is subject to the caution that the results of both 2015 and 2016 were likely to have been distorted by the reactions of owners and farmers to the introduction of the Basic Payment Scheme. That dynamic would have played out in different ways as 2015 was the year in which land occupation was critical for access to the new scheme, even though this was still attended by considerable uncertainty for some.

5.3 That allocation, with its substantive removal of “naked acres”, has perhaps intensified the incentives of an area payment system to limit change in land occupation.

5.4 The broader political climate for land tenure decisions and, more specifically, the discussions around the development and enactment of the Land Reform (Scotland) Act 2016 is also likely to have been in the minds of many owners. It is noted that the Agricultural Holdings Law Review Group’s interim report in 2014 observed that being an agricultural landlord had become seen as a high risk, low reward activity.

5.5 It is not obvious that the United Kingdom’s then prospective withdrawal from the European Union with potential changes in support and possible effects of future changes in trading arrangements on produce prices affected land occupation decisions for 2019.

5.6 Those points made, a review of the overall picture points to:

- the overall low numbers and level of activity involved
- the effect within these small figures of both some large areas
- the larger number of lettings that are very small areas of land
- letting now being predominantly an activity for bare land. While there are lettings of traditional units with dwellings and buildings, often of larger areas, they are now only a small part of the market.
- some reversion to the patterns of 2012 and 2013 after the oscillations around the BPS process with the management of arrangements for 2015 with its allocation of BPS entitlements, with some owners holding land in hand and others letting it out to more eligible claimants.
- that done, the proportion of units that had been let and were then re-let has recovered from that process towards levels seen in England and Wales but within a very low level of activity.

5.7 However, alongside the tenancy structures recorded here, there is much more activity in the letting of seasonal grazing arrangements (commonly tenancies under Scottish law). In that, Scotland could be seen to be becoming much more like Ireland with its enormous reliance on seasonal agreements and the potentially associated problems for land management that have now led to a desire there to recreate a tenanted sector.

## 6. NET MOVEMENT IN THE SIZE OF THE TENANTED SECTOR

6.1 This analysis looks at the flows of land into and out of the tenanted sector. It starts with the acres that the Survey reports as added to the let sector in the year – land that had not been let that is now let. The land lost from the let sector in the year is then recorded – that is the previously let land that has been taken in hand, put to contract farming or to grazing arrangements. The result is a net figure of the overall acreage gain or loss for the sector and thus a barometer of its health, albeit one potentially obscured in Scotland by the very large areas of some units.

6.2 The position can be compared with the analysis of the 2017 and 2018 Surveys for Scotland as well as more generally with the figures in England and Wales.

**Table 4 - Net Movements in the Area of the Scottish Tenanted Sector in 2018**

	2019	2018	2017
<b>Fresh Let</b>			
Vacant (inc purchased)	+2,952	+ 778	+2,560
Ex Contract Farmed		-	+ 340
Ex Grazing	+ 612	+ 200	+ 687
<b>Total Gains</b>	<b>+3,564</b>	<b>+ 978</b>	<b>+3,587</b>
<b>Less Losses from Previously Let Land</b>			
<i>Ex AHA/AHA Ltd Partnership</i>			
ex AHA to In-hand		397	2,363
ex Small Landholders to In-hand	110		
ex AHA to Grazing	39		
ex AHA to Contract Farmed		720	253
ex AHA LP to Contract Farmed			
ex AHA LP to Grazing			
ex AHA LP to In Hand			73
ex AHA LP to Other			
ex AHA to Other			
ex AHA Sold on End of Tenancy	150		
ex-AHA Sold to Sitting Tenant	9		317
ex-AHA to Compulsory Purchase			
ex-AHA to unknown			
<b>Total AHA/LP Losses</b>	<b>308</b>	<b>1,117</b>	<b>3,006</b>
<i>ex LDT/SLDT</i>			
ex LDT/SLDT to In Hand	16		
ex SLDT to Contract Farmed			
ex LDT to Grazing Arrangement			28
ex SLDT to Grazing Arrangement	124		15
ex LDT/SLDT to Other (Forestry)	573		
Sold on End of Tenancy	77		
Sold to Sitting Tenant			
<b>Total LDT/SLDT Losses</b>	<b>790</b>	<b>0</b>	<b>43</b>

<b>Total Losses from Previously Let</b>	<b>- 1,098</b>	<b>- 1,117</b>	<b>- 3,049</b>
<b>Net Change in Tenanted Sector</b>	<b>+ 2,466</b>	<b>- 78</b>	<b>- 289</b>

6.3 As that table shows, the 2019 figures follow the outcomes of the 2017 and 2018 surveys with what appears to be new pattern of a rough balance (a marginal loss) between land leaving and entering the let sector but with very low volumes of land involved – indeed, very low levels of activity overall. Had one large new letting not happened, the balance would have been a marginal loss of let area.

6.4 That is a change from the previous larger losses of land seen in earlier surveys (- 28,000 acres in 2016, -12,000 in 2015, a near balance in 2014 and larger losses before that) and may reflect the effect of the move in 2015 to a more comprehensive area payments system on the allocation of Basic Payment entitlements in 2015, freezing activity.

6.4 That pattern is consistent with the annual data issued by the Scottish Government on the overall size of the let sector showing its decline now stabilising but with minimal use of the new forms of tenancy.

6.5 In broad terms, the let sector in England and Wales, having grown in the years after the 1995 reforms, has stood still since Single Payment entitlements were allocated (carried over in England for the Basic Payment Scheme) – area payments being seen as a force for stasis in land occupation. This Survey may well now be showing a similar effect in Scotland following the allocation of Basic Payment entitlements on an area basis combined with the division of Scotland into three payment areas and the additional factor of the Scotland's temporary adoption of a siphon on payment values on without-land transfers of entitlements (a complication for many tenancy changes).

6.6 This year has, unusually seen more losses from new tenancies than old ones, but this would appear to be where they have been used to manage land on an interim basis ahead of development or forestry but, again, low volumes are involved. Generally, land let on SLDTs and LDTs is land that the owner has been content to let within the last decade or so and, thus, likely to wish to re-let.

6.7 As in 2017 and 2018, 2019 saw some previously in-hand being newly let.

6.8 It is striking that, with the exception of 2016, the Surveys have shown very few (2, 0, 3, 1, 0) sales of previously let land in Scotland and so suggesting a strong pattern of retaining land rather than of owners capitalising on the access to value offered by the end of a tenancy or a deal with a sitting tenant.

6.10 2019 saw one small scale sale to a sitting tenant. While 2016 reported 10 units sold to third parties and 11 sold to sitting tenants, albeit with an average area involved of some 150 acres, 2017 saw only one sale to a sitting tenant, 2018 no such sales (except for the sale of a house and some land as part of a package for retiring tenant with the main area of land moved to contract farming). That appears a reversion to the previous pattern.

6.11 There will always be some land lost each year to the let sector as, for example, land going to development or forestry as well as where the landlord wishes to farm or sell the land. If the size of the sector is to be maintained or grow, that makes it important for new land that

had not been let to be freshly let. That is a matter of choice for landowners, public, institutional and private. Perhaps the sharpest way to pose the question in terms of unlocking land for letting is to ask what would encourage a significant number of weary or retiring farmers to let their land rather than sell it? What would make letting attractive in comparison to the other arrangements for a landowner or retiring farmer to work with another farmer?

## **7. SUCCESSION TO TENANCIES**

7.1 These are analysed separately as they do not represent choices about land occupation made by the owner but rather the use of existing legal rights created by the law in respect of existing agreements.

7.2 For the second year, no successions were reported.

7.3 In 2017 just one succession was reported on 81 acres (with a dwelling), apparently to someone newly eligible under the 2016 Act. While no succession had been reported for 2016, previous years had seen successions recorded on 9, 11, 9 and 54 (in 2012) units covering 2,792 acres, 1,525 acres, 3,447 acres and 32,766 acres with an average size of 310 acres, 139 acres, 492 acres and 607 acres.

## 8. ANALYSIS OF UNITS LET IN 2019

### 8.1 General

This section more closely analyses the units let in 2019, particularly by size and length of letting. Unfortunately, the information collected this year is again too limited to provide sufficient data for analysis by enterprise.

### 8.2 Size of Unit and Fixed Equipment

8.2.1 The average area for these lettings was 183 (302, 325, 663, 231, 273, 279, 266) acres, markedly larger than the average figures for England and Wales of below 100 acres (which reflects the larger number of small areas of bare land let there) but now the lowest figure recorded. The 2016 figure was influenced by a small number of very large lettings.

8.2.2 While, historically, Scotland did not have the same high proportion of smaller, bare land lettings that are seen in England and Wales, the Survey again confirms the trend of recent years towards just that pattern, with bare land lettings, large and small, now predominating. In summary:

- bare land lettings accounted for 93% (81%, 77%) of lettings decisions and 79% (33%, 60%) of the let area
- there was just one letting of land with buildings but not a house (none in 2018 but in 2017 these were 12% of lettings and 17% of the let area)
- units with dwellings accounted for 7% of lettings and 19% of the let area – the lowest figures reported in this survey to date. In 2018, they formed 19% of lettings and 67% of the let area with three of the five units including over 1,000 acres – up from 2017 when they were 12% of units and 23% of the let area.

In 2016, 68% of the new lettings were of bare land, 8% were of land and buildings and 24% also had houses.

8.2.3 Table 5 below illustrates more strikingly than usual the diverging character of fully equipped lettings from the predominant bare land lettings.

8.2.4 One clear conclusion from the accumulated evidence of these Surveys since 2012 is that for discussion of new agricultural tenancies to be effective it should recognise that they are now typically of bare land, including some with large areas. The older model of letting fully equipped, potentially self-contained farms, more typical of those existing tenancies governed by the 1991 Act, is now a minor part when it comes to current lettings.

**Table 5 – Analysis by Size of Holding**

Size	Bare	With Buildings	Fully Equipped
Under 25 acres	16		
25-49	3		
50-74	2		
75-99	1	1	
100-124	3		
125-149	1		1
150-199	4		
200-299	2		1
300-999	2		

### **8.3 Length of Tenancy Granted**

8.3.1 This Survey reports the lengths of term for which new lettings were granted. In practice, this may on occasion underestimate the true length of occupation that may be achieved where some tenancies are renewed or run on in some way beyond their granted terms. Equally, there will be a few tenancies which, for whatever reason, come to an end before their granted term expires.

8.3.2 Unlike England and Wales (and Northern Ireland), Scotland does not offer complete freedom of contract over the length of a tenancy. While it has been possible since 2003 to let land on a variety of terms, each with different legal effects, it remains a curiosity that it is illegal in Scotland to enforce a letting for a period of between 5 and 10 years.

8.3.3 The terms granted for the new tenancies reported to the Survey ranged from very short (1 year - perhaps 364 days for the formalised grazing tenancies) to 15 (13, 35, 35, 35, 25, 25, 38) years. That shorter maximum period follows an apparent change in 2018.

**8.3.4 Use of the Reduced Length for Longer Lettings (MLDTs, previously LDTs)** – Of the 4 (7) MLDTs reported, 2 (4, 8, 6, 8, 3, 7, 8) units were let for a term of 10 years and 2 (3, 1, 3, 3) for longer terms (12 and 15 years) but none in 2019 for more than 15 years. That continues to show that the amendment to allow LDTs for a term of between 10 and 15 years is overwhelmingly used where the MLDT (LDT) structure is adopted. It is not possible to tell from the data how many of these:

- would have been let anyway but at 15 years
- would have been let as SLDTs instead and so now have a longer term
- would not have been let

without the change.

8.3.5 However, that is consistent with analysis suggesting that, where the law sets a minimum term then that figure tends to set a norm for owners who are willing to let, creating its own pressure for parties to use it. This was an important part of the English debate on tenancy reform since, where no minimum term is set, the parties have to judge the matter themselves.

8.3.6 In a noticeable swing from 2018, all the 4 (7) MLDTs, were of bare land and none (4, 4) were of fully equipped units. Fully equipped units had accounted for 3,489 acres in 2018 and 2,188 acres in 2017. In 2018, 3 (2) were of bare land covering 690 acres (4,433). Those earlier figures had been consistent with the general correlation found between scale of fixed equipment and length of term – that is not shown in 2019.

**8.3.7 Re-Letting of SLDTs** – Of the 27 (14) SLDTs that ended 8 were not re-let (none were not re-let in 2018). The decision made in each set of circumstances saw:

- 1 (3) was re-let as an MLDT for 10 years
- 7 (1) was re-let for 5 years
- 2 (0) were re-let for 3 years
- 4(0) were re-let for 2 years
- 4 (8) were re-let for a year
- 1 (1) is reported as re-let on a year to year basis
- 0 (1) was re-let for less than year (5 months).

**8.3.8 Overall Average Term** - The average length of a new letting has fallen back to 3.57 years, back to 2017's low of 3.68 years having been 4.56 years in 2018 – 2016: 7.49 years; 2015: 5.47; 2014: 6; 2013, 6.69. For simplicity excluding those reported as being from year to year, the figure becomes 4.2 years (2018: 4.9 years; 2017's 6.66 years). In 2019 this is unaffected by lettings for less than a year; excluding those in 2018 made the average 5.1 years (4.98 years in 2017). The previous Surveys would also have had lower averages if the large volume of grazing tenancies was included.

8.3.9 That compares with the overall average length of letting on all types of FBT for all purposes in England and Wales of 2.9 years in 2018 (3.97 years in 2017, 4.48 years in 2016, 3.83, 3.53, 3.16, 4.12, 3.89) and 4.14 (4.98) years where the FBT is for a year or more. These figures also reflect the high proportion of smaller, bare land units and the typically low proportion of tenancies with houses that are let there. CAAV Surveys have shown that the lengths of lettings for units with similar levels of equipment are similar to those in Scotland. Thus, much of the apparent difference in the summary averages between the Scottish figures and those for England and Wales is accounted for by the different mix of types of holding. However, for 2018 and 2019 those historically different patterns appear to be converging.

8.3.10 That difference is now explored in more detail.

**8.3.11 Patterns in the Length of Letting** - As has been found in England and Wales, the terms granted typically vary with the previous form of tenure and the level of fixed equipment. In individual cases, this will reflect the circumstances and attitudes of each owner as well as the holdings in question.

**8.3.12 Term by Previous Occupation (Numbers of Units)** – However, the historic tendency for units that had previously been let under the 1991 Act to be let for longer terms (with an equivalent pattern in England and Wales) is not revealed in 2018.

**Table 7 – Previous Tenure and New Type of Tenancy**

	<b>≤5 years</b>	<b>10+</b>
AHA	- (1, -, -, -, 3, 2)	- (-, 4, 4, 2, 2, 3)
AHA LP	1 (2, 1, 4, 1, -, 7)	- (1, -, -, 3, -, 8)
LDT	1 (1, -, -, -, -)	3 (-, 2, 2, 1, 1)
SLDT	<u>18 (11, 31, 6, 15, 9)</u>	<u>1 (3, 2, 1, 3, 1, 4)</u>
	20 (15, 32, 10, 16, 12)	4 (4, 8, 7, 10, 4, 16)
VP	5 (3, 11, -, -, -, 8)	- (1, 1, -, -, -, -)
GA	16 (2, 10, 3, 9, 2, 1)	- (1, -, -, 1, -, -)
CF	<u>- (-, -, 1, -, 1, -)</u>	<u>- (-, -, -, -, -, -)</u>
	21 (5, 21, 4, 9, 3, 9)	- (2, 1, -, 1, -, -)

**Table 8 - Length of Tenancy by Previous Tenure**

	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>
Ex 1991 Act	-	5.00 <sup>1</sup>	15.00	18.75
Ex 1991 Act Ltd P'nership	5.00 <sup>1</sup>	5.67	5.00 <sup>1</sup>	4.50
Ex LDT	10.50	10.00 <sup>1</sup>	10.00 <sup>1</sup>	10.00

Ex SLDT	3.31	3.35	2.53	4.79
Ex Grazing Arrangement	3.00	6.67	3.55	3.67
Ex Contract Farming	-	-	5.00 <sup>1</sup>	
Ex Vacant Possession	3.60	5.50	2.67	-

Note

- 1. Only one unit

**8.3.13 Term by Level of Fixed Equipment** – Upholding the typical pattern, the average terms by the extent of fixed equipment on a holding shown by the 2019 Survey is:

	2019	2018	2017
Bare land	4.31	3.32	2.42 years
Land with buildings	5.00	-	6.29
House and land	3.00	9.80	10.52

8.3.14 That again reverses for 2019 the typical picture of length of term rising with the level of fixed equipment. Unfortunately the information collected in 2014 for Scotland did not provide enough data to allow a useful analysis of term length by the level of fixed equipment but the picture shown by the previous 2013, 2015 and 2016 Surveys (consistent with that from England and Wales where 2018 recorded unusually low figures but holding the relative pattern) is shown by the table below.

**Table 9 – Length of Tenancy by Fixed Equipment, 2013 to 2016; England 2018**

	2016	2015	2013	England 2018
Bare land	6.16 years	3.55 years	3.06 years	2.40 years
Land with buildings	7.50	7.50	10.90	4.69
House and land	11.25	8.56	9.53	7.52

## 9. NEW LETTINGS AND NEW ENTRANTS

**9.1 How Many Tenancies are Taken by New Entrants?** - One question regularly asked is the extent to which new tenancies are taken by new entrants.

9.2 Beyond a very narrow (and, in practice, unilluminating) definition based on the first time a prospective farmer takes land, it is very difficult to define a new entrant. Accordingly, respondents were simply asked two questions:

- whether they considered the tenant of a new letting to be a new entrant
- whether the unit had been re-let to the person who had farmed it before.

9.3 Of the 43 (20) cases where the question was answered, 11 (5) lettings were to someone perceived as new entrant. Of the 17 (12) cases where the new tenant had not previously farmed the land, 11 (4) were let to new entrants – 65% (33%). It is noted that these include 9 lettings under the Scottish Government's Farming Opportunities for New Entrants (FONE) programme by Forestry and Land Scotland – all bare land including one large area with a hefted flock.

9.4 Typically, 20% to 30% of the lettings where the land is not let to the same farmer as before are taken by new entrants (with similar figures seen in England and Wales). While that proportion may appear positive, it was in reality only a very small number of actual cases – indeed, 2 (4) from the private sector that is the long term source of potential lettings as forestry land goes to be planted.

9.5 Experience shows that more opportunities would yield more new entrants taking lettings. This avenue of entry is limited by the number of opportunities to win tenancies.

9.6 Those figures also touch on the question of what would be desirable levels of entry to the let sector. If between a fifth and a third of lettings to farmers who did not previously have that land are to new entrants: is that about right? or too low (and perhaps a policy issue)? or even high enough to wonder about what it is really saying? What would be happening in the sector, if all such new letting relationships were with new entrants? Would that mean existing farmers (including recent new entrants) were not getting expansion opportunities? And then, if not, why not? Would it suggest that new entrants, having entered, were then not progressing? There is probably no optimal answer but such discussion, informed by data, allows this to be part of larger debate about the structure of the sector. If the sector is shrinking or inactive and relatively few new lettings are offered, that narrows opportunities for all, especially those trying to start farming on their own account by means other than purchase.

**9.7 Length of Term for New Entrants** – With 1 (2) MLDTs and 10 SLDTs, the average length of a letting to a new entrant was 5.13 years (7.62, 7.5 years), less than in recent years but still longer than the overall average. That average was however pulled down by the FONE lettings; without them the smaller sample from private owners would have been 7.5 years. The Surveys before 2016 showed new entrants having lettings for longer than average terms: 11 years, 12.5, 10.66 and 9.80.

**9.8 Average Size** – Except in 2018, new entrants have tended to take larger than average holdings. In 2019, that average was 317 acres (with units from 4 to 2609 acres) and 173% of the average area let in 2019. That is a return from 2018's unusually low average of 120 acres

(40% of the average area let in 2018). Previous figures had been 790 acres in 2017 (including one letting over 2,000 acres) and surveys before 2016 reported 680, 730, and 545 acres. These areas were 243% (194%, 52%, 95% and 32%) larger than the overall average.

## **10. OTHER AGREEMENTS**

### **10.1 Contract Farming**

10.1.1 Returns to the Survey reported 11 (6, 3, 13, 10, 8, 11, 20) new or renewed agreements covering 1,938 acres (5,961, 1,953, 32,414, 12,510, 17,051, 5,554, 13,045) - an average area of 176 acres (993, 651, 2,493, 1,251, 2,131, 505, 652).

10.1.2 8 (3, 0, 5, 3, 5, 5, 5) of the agreements were reported as replacing previous contract farming agreements, 2 (1, 2, 3, 4, -, 3, 10) were on in-hand land. 1 (2, 1, 1, 4) units had previously been on a 1991 Act letting and 0 (0, 0, 1) on a grazing arrangement.

10.1.3 While 2 (4) agreements were with a different farmer, 1 (0, 0, 2, 3, 2, 1) were with a farmer perceived to be a new entrant.

10.1.4 7 (6) were for fixed terms, with a reduced average term of 2.2 (3.6) years and a further 4 were recorded as from year to year.

### **10.2 Grazing Agreements**

10.2.1 This sector will overlap with the significant number of seasonal grazing lets reported as tenancies, perhaps as easily reported as such here.

10.2.2 89 (90, 65, 114, 32, 8, 40, 32) new grazing arrangements were reported on 15,851 acres (23,150, 9,217, 8,004) acres (an average of 178 (251, 142, 70) acres). While, with the two previous years, these are higher figures than previous Surveys, it is probable that these Surveys do not generally capture the larger grass lets markets but rather collect data on situations where grazing arrangements have arisen on managed estates, typically where letting is an option to be considered or where other issues have driven the decision.

10.2.3 Of these, 83 (88, 60, 105) replaced previous grazing arrangements, 0 (1) replaced a contract farming agreement, 2 (0, 0, 6) replaced SLDTs and 0 (0, 2, 3) were previously in hand and 2 (0, 3) were on land that had been purchased, compared with:

- 2015 when 28 of the 32 agreements had previously been on grazing arrangements covering 9,031 acres, 3 replaced 1991 Act tenancies over 1,160 acres, and an LDT over 2,303 acres.
- 2014 when 6 of the 8 agreements had previously been on grazing arrangements covering 310 acres (with two areas unknown), one had previously been vacant and one had an unknown previous tenure
- 2013 when 5 (6) replaced former 1991 Act tenancies covering 1,607 (10,986) acres and 1 (3) replaced an SLDT on 7 (5,060) acres with the remainder previously on grazing arrangements save for one vacant unit.

10.2.4 83 (86, 62, 100, 25, 6, 34, 26) were with the same farmer as before – unsurprising in the context of seasonal grazing land being made available for many years to neighbours. None (1, 0, 0) was taken by a new entrant.

10.2.5 1 (0) was replaced by a contacting agreement. None (2) were taken in hand.

### **10.3 Share Farming and Other Agreements**

No other such agreements were reported as being used.

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