

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

**THE ELEVENTH SCOTTISH
AGRICULTURAL LAND OCCUPATION SURVEY
FOR THE YEAR TO 30TH NOVEMBER 2022**



CONTENTS

- 1. Introduction**
- 2. Comparison and Perspective**
- 3. Overview, Key Points and Questions**
- 4. New Lettings**
- 5. Tenancies that Ended**
- 6. Net Movement in the Size of the Tenanted Sector**
- 7. Succession to Tenancies and Assignations**
- 8. Analysis of Units Let in 2021**
- 9. New Lettings and New Entrants**

Jeremy Moody
Secretary and Adviser

March 2023

**Central Association of Agricultural Valuers,
Harts Barn Farmhouse,
Monmouth Road, Longhope,
Gloucestershire. GL17 0QD**

Telephone 01452 831815
E-mail jeremy@caav.org.uk

THE AGRICULTURAL LAND OCCUPATION SURVEY FOR SCOTLAND 2020

1. Introduction

1.1 This is the eleventh 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 2022, land where tenancies ended in 2022 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 eleventh such Scottish Survey, this allows 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. This work has been complicated by market reactions to the implementation of the Basic Payment Scheme (particularly for arrangements in the years 2014 to 2016), the discussion of and changes to Scottish land tenure, the United Kingdom's protracted departure from the European Union and now the growing discussion of new Scottish agricultural policies.

1.4 The Relinquishment and Assignment provisions of the Land Reform Act were implemented from February 28th 2021. The CAAV published *Relinquishment and Assignment* in February 2021 as a professional guide for those involved in or looking at this work. While it may be that only few applications have been made to the Tenant Farming Commissioner in a process that requires much information, those provisions provide a backcloth for discussions thought to be underway between landlords and tenants. Last year's Survey included an Appendix setting out the results of a survey of members' experience of these informal discussions; this year's Survey notes two voluntary assignments..

1.5 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, especially for aspects with only a small number of units reported.

1.6 This Survey reports on a total of 67 (84) units on 25,031 (13,501) acres with changes involving decisions about the letting or occupation of agricultural land in Scotland in the year to November 30th 2022, so including the main late November Martinmas 2022 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. Numbers of units and total acreages from 2013 are shown in Table 1.1.

Table 1.1 Number of units and total acreage reported

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Number	132	53	107	176	142	128	257	130	84	67
Acres	107,254	25,424	46,279	62,201	35,179	38,665	26,023	34,657	13,501	25,031

- 1.7 The units reported in the Survey comprise (previous three year's data in brackets):
- 36 (21, 32, 45) where tenancies were reported to have been let in the year, covering 8,559 (4,121, 4,645, 7,124) acres. 7 (8, 12, 4) were MLDTs. By previous tenure:
 - 27 (15, 23, 24) were of units where a tenancy had ended – 2 1991 Act tenancies, 21 SLDTs and 4 LDTs
 - 4 (5, 4, 16) followed grazing arrangements
 - 2 (0, 0, 0) followed a contract farming arrangement
 - 5 (1, 1, 5) moving from in hand or newly acquired
 - 5 (2, 4, 0) successions to existing tenancies on 1,153 (476, 867, 0) acres
 - 2 voluntary assignments on 320 acres
 - 19 (12, 18, 8) tenancies that ended and the land was reported as not re-let covering 8,724 (4,457, 9,595, 785) acres of which (including holdings with multiple outcomes):
 - 6 (2, 3, 2) were taken in hand
 - 3 (4, 1, 3) went to grazing agreements
 - 5 (2, 8, 1) were put on a contract farming agreement
 - 4 (3, 1, 1) were sold
 - 1 (4, 0, 0) were sold to the sitting tenant
 - With much less reporting of essentially seasonal grazing arrangements than in recent years, 5 cases covering 5443 acres were reported, noting the pattern of ensuring a break between lettings under s.3 of the Agricultural Holdings (Scotland) Act 2003 for grazing or mowing for less than a year. The last three years had seen 48, 64, 89 new grazing agreements covering 4,113, 16,763, 15,962 acres. There is no reason at present to suppose any change in real practice in this often more informal market.

1.8 Emphasising a theme of recent years that bare land lettings are now predominant in Scotland, only 3 (2) of the 36 (21) new lettings included a house while 10 (8) of the tenancies that ended and were not relet included a house. All 5 successions and the two assignments included a house.

1.9 One response noted the relatively low number of tenancies ending.

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. This is especially so when reporting on relatively limited numbers.

2.2 Comparison is particularly made with the results of recent CAAV Scottish Surveys for 2020 and 2021 and also those from the CAAV's Agricultural Land Occupation Survey for England and Wales, which has been conducted since 1977. 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 and drawn from returns to the annual June Census.

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 the United Kingdom
- the EU's direct payments regime (previously the Single Payment Scheme and now the Basic Payment Scheme) essentially applied throughout the United Kingdom in 2022 but with different arrangements in each territory of the United Kingdom with England have begun its phasing out in 2021.
- Even with Scotland's Stability and Simplicity paper of 2018, many farmers and owners in all areas of the UK have perceived uncertainty about future agricultural policy with resulting caution. The outline of future Scottish policies, geared to climate change goals, began to appear from later 2020 but were perhaps not widely evident and were anyway not defined in detail, though that future direction was reinforced by papers issued in 2022. The EU-driven removal of Less Favoured Area Support Scheme (LFASS) payments was reversed in 2021.
- 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. Energy prices and their effect on fertiliser prices had become issues later in 2021, compounded by the effects of Russia's invasion of Ukraine in February 2022, including a strengthening of cereals prices: output for arable farmers and inputs for livestock farmers.
- any 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 with a further. The later 2022 consultation ahead of the Agriculture Bill due in the 2023/24 session outlined possible changes to aspects of agricultural tenancy law but would have been too late to bear on decisions in the Survey period

- the unfolding of land reform legislation (including the background sensitivity to any 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, again likely to prompt caution for landowners. The Statement of Land Rights and Responsibilities was revised within the Survey period. A further Land Reform consultation was issued in the second half of the year focused on “large landholdings” but also proposing a potentially more flexible Land Use Tenancy, covering environmental as well as agricultural uses. These, with the subsequent Small Landholders consultation, would have been too late to influence decisions in the Survey period.

There may always 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** – 2022 again saw a low level of activity with a let sector that appears to be both limited and 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 urgent need for agriculture to rise to its overlapping challenges, the economic one of improving productivity and competitiveness, mitigating and adapting to climate change and meeting environmental demands.

3.2 Within the let sector, bare land lettings remain the dominant type of letting, though not to the extreme extent seen in 2019.

3.3 With this leaving 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, yet the tenanted sector cannot solely rely on estates.

3.5 **With the backcloth of a long period of steady decline, the previous three years reported a rough, if slightly deteriorating, balance between land flowing into the let sector and land leaving it, with very small volumes of land on each side, illustrating the low levels of activity in this sector. 2022 sees greater losses, notably from the LDT and MLDT lettings, alongside the inevitable losses from 1991 Act tenancies.**

3.6 **2022’s net loss of 8,525 acres (see Table 6.1) is greater than was seen in 2021 (3,780) and more broadly based than the net loss in 2020 of 8,640 acres,** influenced by just one large tenancy ending. 2019 saw a net gain of 2,466 acres in 2019 while there were net losses of 78 acres in 2018 and 289 acres in 2017. All these figures are to be compared with the 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.

3.7 Overall, this and the previous three Surveys are consistent with recent figures from the Scottish June Census Surveys which point to the let agricultural sector being on the edge of a recent plateau at risk of renewed decline. The 2021 June Survey showed for areas under tenancy:

- a marginal fall in the let area to 1,266,477 hectares (but 1,365, 932 in 2011)
- a 1.2 per cent fall in rented holdings (excluding crofts) to 5,940 units (but 6,516 in 2013)

- a 2.7 per cent fall in the number of 1991 Act tenancies to 3,821 on 606,748 ha (but 5,086 in 2013 and 793,558 ha in 2014 – data for 2013 not given – a 24 per cent reduction in area since 2014)
- a further 368 holdings are on Limited Partnership 1991 Act tenancies with 97,888 ha, also down

but, as those figures were always going to decline over time, there are increases in SLDT and MLDT lettings with new totals of:

- 1258 SLDTs (648 in 2013) on 152,496 ha – a 6.6 per cent decline in 2020 (111,624 ha in 2014)
- 918 MLDTs (389 in 2013) on 261,587 ha for both LDTs and MLDTs (the LDT area in 2014 was 104,501).

3.8 While those figures point to an increased usage of the new tenancies within a smaller let sector, their total area is still not yet 60 per cent of the reduced surviving full 1991 Act sector with the overall let sector at 22 per cent of the farmed area. In England and Wales, the two sectors are roughly equal and, even with subdued letting activity, holding the formal let sector at around a third of the farmed area.

3.9 **This 2022 Survey sees 61% of the let holdings that fell vacant reported as re-let (57%, 57%, 66%, 83%, 84%), again lower than was once the trend. The proportion of that area re-let was also lower than the long run trend (if above 2020) at 50% (40%, 28%, 81%, 87%, 87%, 35%).** A noticeable break is seen from the historic pattern for those landowners who were still landlords to be predominantly content with re-letting; neither legislation nor taxation was generally sufficient to dissuade them.

3.10 With little new land entering the let sector – 1,454 acres in 2022 (1,010 acres in 2021, 1,109 acres in 2020) - that attrition will see it continue to shrink.

3.11 **The average size of a new tenancy was 247** (196, 145, 183, 302, 325, 663, 231, 273, 279, 266) **acres.** The higher figure for 2016 reflected a small number of much larger units alongside smaller lettings.

3.12 **The average length of a new tenancy dropped to 5.08** (7.24, 6.50, 3.57, 4.56, 3.68, 7.49, 5.47, 5.99, 6.69, 6.66) **years** but sharply polarised between the minority of MLDT lettings of between mainly 10 years but up to 25 years and SLDTs for periods of less than a year up to the 5 year ceiling. The average is one of two very different outcomes.

3.13 The pattern of lengths of tenancy by previous tenure was more confused than in most years, when the pattern has been for land let previously on longer tenures to be generally re-let for longer terms. In part this year's picture perhaps confirms that this Survey is reporting on what has become a residual market with little activity.

3.14 **67%** (52%, 75%, 93%, 81%, 78%, 68%, 65%) **of lettings in 2021 were of bare land and 8%** (10%, 15%, 7%, 19%, 12%, 24%, 22%) **included a dwelling – the balance includes buildings but no dwellings.** While it has been conventional to think of Scottish agricultural holdings as fully equipped, the results in this Survey continue to highlight

the dominance of bare land units in the number of new lettings in Scotland. 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. This has been a natural part of the restructuring for any industry under economic pressure and it will not be readily reversed.

3.15 **Just one newly let but previously unlet holdings included a dwelling** – last year, none did. As in previous surveys, that newly let unit including a house was distinctively larger than other lettings at 400 acres – previously average sizes of 437, 456, 1,058, 667, 1,535 acres.

3.16 Issues over housing are likely to become more difficult with the cost, work and disruption of meeting increasing Minimum Energy Efficiency Standards, the extension of the requirements of the Repairing Standard to agricultural housing from 28th March 2027 and the further extension of the residential tenancy regime to this housing foreshadowed by consultations on residential lettings. Where this requires significant expenditure on farmhouses and cottages, it may prompt a commercial review of their positions by both landlords and tenants.

3.17 6 of the lettings (2, 1, 11, 5, 4) were reported as being to new entrants. **While 16% of the small number of lettings, this was 50% of the even smaller number where the farmer changed** (33%, 9%, 65%, 33%, 20%, 0%, 50%, 20%, 18%, 23%). The best explanation of 2016 appeared to be seen in the context of 2015's incentives for new entrants with the introduction of the Basic Payment Scheme. The longer term picture given by the CAAV's Surveys for England and Wales shows that new entrants generally take some 20-30% 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.

3.18 The 6 lettings to new entrants included 3 MLDTs and two tenancies had a house. The average length of letting was 9.33 years (4, 10, 5.13, 7.62, 7.5, -, 11, 11.25, 10.66, 9.8), again longer than the average length of letting. The average area let at 631 was an average of extremes (151, 367, 317, 120, 822, -, 680, 730, 545, 351) but once gain larger than the general average.

3.19 While, overall, continuing to confirm the present stasis of a tenanted sector that does not attract significant new land for letting, there are potential indications of its precarious condition in the face of accumulating uncertainty over agricultural and land policies. The patterns of behaviour noted above (including a lower proportion of units re-let so reducing the level of activity and some drift to contract farming) have echoes of what was seen in the uncertainty ahead of both the Single Payment and Basic Payment Schemes, with caution further limiting and distorting activity.

3.19 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?

3.20 One Estate's View - With estates, rather than smaller owners or farmers, still responsible for a significant fraction of lettings in Scotland, these comments were offered by one estate as a long-term landlord in 2019 and stand repetition. With no changes in lettings to report for 2019, 2020 or 2021 and only one in 2022, it said:

- "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."

3.21 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.

3.22 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 has been implemented earlier in 2021 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, reflect the size of the holding in question and 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.

3.23 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 36 tenancies reported as having been let in 2022.

Table 4.1: Number of tenancies created

Year	2022	2021	2020	2019	2018	2017	2016
No. of tenancies created	36	21	32	45	26	63	25
Total area (acres)	8,889	4,121	4,645	7,124	8,564	20,517	16,673
Average size (acres)	247	196	145	183	302	325	663
Average length	5.09	7.24	6.50	3.57	4.56	3.68	7.49

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 9 months to 25 years. Of the 36 lettings, 7 (8) were MLDTs.

4.3 **By Type of Owner** – Table 4.2 again demonstrates the fundamental role of private landowners in letting farmland. 25 (14) of the 36 (21) lettings were by private owners, 2 by financial institutions and 9 by traditional institutions.

Table 4.2: Type of owner

	2022	2021	2020	2019	2018	2017	2016	2015	2014
Private landowner	25	14	22	22	24	59	24	36	19
Traditional institution and government bodies	9	7	9	22	2	3	1	2	-
Financial institution	2		-	1	-	-	-	2	-
Not known			1	-	-	1	-	-	-

4.4 Where Have the New Tenancies Come From?

4.4.1 Table 4.3 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 on a contracting or grazing arrangement. Some lettings combined land let on differing terms (as, say, an SLDT and a grazing agreement).

Table 4.3: Previous Tenure of Land Let in 2022 - Comparison with 2021 Survey

	2022			2021		
1991 Act	1	2}	5%	4	4}	19%
1991 Act Ltd Partnership	1	}		0	}	
LDT	4		11%	2		10%
SLDT	21		55%	10		48%
Small Landholders	0			0		
Grazing Arrangement	4		11%	5		24%
Contract Farming	2					
Vacant	5		13%	1		5%

4.4.2 As in previous years, some units are reported to have been let when not having been let in any way before – 5 in 2022, 1 in 2021, 1 in 2020, 5 in 2019, 4 in 2018 and 12 in 2017.

Table 4.4: Acreages of New Units Let by Previous Tenure

	2022	2021	2020	2019	2018	2017	2016	2015
AHA	360	1,006	512	0	91	8,833	3,462	1,825
AHA LP	3,252	0	0	1,000	2,126	193	1,065	792
Total AHA	3,612	1,006	512	1,000	2,217	9,026	4,527	2,617
LDT	428	243	913	1,046	451	317	6,140	2,437
SDLT	3,562	1,862	1,960	1,503	4,857	8,413	3,967	1,769
Grazing	487	697	121	612	261	200	687	1,089
Contract Farming	164	0	0	0	0	0	340	-
Vacant	803	313	988	5,997	778	2,561	-	-

4.4.3 24 (11, 24, 42, 21, 46) of the 36 (21, 32, 45, 26, 60) lettings for which fixed equipment was known were bare land. Even though, at 67% of lettings decisions, this is lower than recent years (57%, 75%, 93%, 81%, 77%), this again shows the decline in the letting of equipped units. Covering 2,472 acres (1,527, 2,164, 1,367, 2,576, 12,291), they accounted for 28% (37%, 47%, 19%, 33%, 60%) of the let area.

4.4.4 Comparison with England and Wales shows that they have 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 as well as the large volume of Scottish pasture handled on short grazing arrangements that might in a different regime be let for more than a year. That limited use of the new forms of tenancy 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.

4.4.5 Nonetheless, it appears that the high proportion of bare land lettings is now a confirmed feature of the Scottish agricultural lettings market, as also 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. In practice, the boundary between the two may be obscure on the ground for arrangements of less than a year, largely turning on their terms and the facts of the case - including whether it is the owner or the grazier who is claiming Basic Payment.

5. TENANCIES THAT ENDED

5.1 This section looks at those units where a tenancy ended in 2022 and records whether it was re-let (and if so, in what way) or taken in hand, put to another arrangement or sold.

Table 5.1: Tenancies that Ended - 1991 Act (including Limited Partnerships), LDTs and SLDTs by number

NB Some holdings were split after the tenancy ended

Number	2022		2021		2020		2019		2018	
	No	%	No.	%	No.	%	No.	%	No.	%
Total	45		28		40		36		23	
Re-let	27	60%	16	57%	23	57%	24	66%	19	83%
Sold	4	9%	3	11%	1	2%	2	6%	-	
Sold to tenant	1	2%	4	14%	1		1	3%	-	
In hand	6	13%	2	7%	3	7%	2	6%	2	9%
Contract Farming	5	11%	2	7%	9	22%	-	-	2	9%
Grazing	3	7%	3	11%	1	2%	3	9%	-	
Share Farming	-		-		4	10%	-		-	
Forestry	-		-		1	-	4	11%	-	
D/K			-		-	-	-	-	-	

Table 5.2: Tenancies that Ended - 1991 Act (including Limited Partnerships), LDTs and SLDTs by area

Area	2022		2021		2020		2019		2018	
	No	%	No.	%	No.	%	No.	%	No.	%
Total	18,114		7,707		12,725		5,713		8,642	
Re-let	8,889	50%	3,111	40%	3,531	28%	4,615	81%	7,525	87%
Sold	2,388	14%	1,136	15%	20	0%	227	4%	-	-
Sold to tenant	500		1,147	15%	-	-	9	-	-	-
In hand	1,719	10%	816	11%	4,915	39%	126	2%	397	5%
Contract Farming	4,428	25%	606	7%	2,279	18%-	-	-	720	8%
Grazing	474	3%	891	8%	279	2%	-	-	-	-
Share Farming					1,701	13%				
D/K							573	10%-	-	-

5.2 Those figures continue to suggest a weakening of the general tendency that had been seen in Scotland as elsewhere for previously let units to be re-let. The pattern is perhaps similar to that around the introduction of the Basic Payment. Repeating the picture of 2020 and 2021, this now seems less the chance of single year's figures and more a mood of caution ahead of future support policy changes in Scotland.

5.3 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.

5.4 While two agreed assignations are reported in Section 7 below, none of the terminations of letting are reported as flowing from negotiations under the shadow of the Relinquishment and Assignation legislation. It is possible that some might have done so.

5.5 A number of agreements, whether short tenancies, grazing or other arrangements, appear to be "holding" operations as where the owner is considering options, reacting to a change in family circumstances, ahead of development or in advance of an intended letting. This year, some are leases ahead of forestry planting.

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

- the overall low numbers and level of activity involved
- 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.
- that pattern being accompanied by lettings of smaller areas of land
- some reversion to the patterns seen around the introduction of the Basic Payment in 2014 to 2016. CAAV surveys then and for 2003 to 2006 with the Single Payment showed that changes in support have an impact on land tenure arrangements as owners and farmers move to protect themselves or seek advantage
- some use of lettings as an interim arrangement, as by the purchaser of land for forestry before planting, ahead of development or other plans of the landowner
- in two cases, lettings were to family interests of the landowner.

The dominant theme though is the very limited letting activity.

5.7 However, activity continues 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 grazing arrangements, or sold. 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.

Table 6.1: Net Movements in the Area of the Scottish Tenanted Sector

	2022	2021	2020	2019	2018
Fresh Let					
Vacant (inc purchased)	+803	+313	+988	+ 2,952	+ 778
Ex Contract Farmed	+164	-	-	-	-
Ex Grazing	+487	+697	+121	+ 612	+ 261
Total Fresh Let	+1,454	+1,010	+1,109	+ 3,564	+ 1,039
Less Losses from Previously Let					
<i>Ex AHA/AHA Ltd Partnership</i>					
ex AHA to In-hand	611	550	4,299	-	397
ex Small Landholders to In-hand	-	-	-	110	-
ex AHA to Grazing	-	30	-	39	-
ex AHA to Contract Farmed	654	80	2,508	-	720
ex AHA LP to Contract Farmed	1,579	-	-	-	-
ex AHA LP to Grazing	-	-	-	-	-
ex AHA LP to In Hand	-	265	379	-	-
ex AHA LP to Other	-	-	-	-	-
ex AHA to Other	-	-	-	-	-
ex AHA Sold on End of Tenancy	1,086	636	-	150	-
ex-AHA Sold to Sitting Tenant	-	786	-	9	-
ex-AHA to Compulsory Purchase	-	-	-	-	-
Total AHA/LP Losses	3,930	2,347	7,341	308	1,117
<i>ex LDT/SLDT</i>					
ex LDT/SLDT to In Hand	1,108	-	237	16	-
ex LDT to Grazing Arrangement	-	335	-	-	-
Ex LDT/SLDT to Share Farming	-	-	1,702	-	-
ex LDT/SLDT to Contract Farmed	1,799	526	449	-	-
ex SLDT to Grazing Arrangement	254	722	-	124	-
ex LDT/SLDT to Other (forestry)	-	-	-	573	-
Sold on End of Tenancy	2,388	500	20	77	-
Sold to Sitting Tenant	500	360	-	-	-
Total LDT/SLDT Losses	6,049	2,443	2,408	790	0
Total Losses from Previously Let	9,979	4,790	9,749	-1,098	-1,117
Net Loss to the Tenanted Sector	-8,525	-3,780	- 8,640	+2,466	- 78

6.3 The final figure showing a net loss of 8,525 acres appears to be a deterioration from the previous five surveys with their apparent pattern of a rough balance between land leaving and entering the let sector, but on the edge of attrition. More than half the larger net loss in 2020 was accounted for the one tenancy being taken in hand. While not at present looking like the substantial losses seen in the first few surveys from 2012 to 2016, this Survey shows a much larger loss than in previous years from LDTs and SLDTs.

6.4 It is still broadly consistent with the data issued by the Scottish Government drawn from annual censuses on the overall size of the let sector showing its decline having slowed, reaching a more stable point at a reduced level with an increased use of the new forms of tenancy. Nonetheless, it shows the vulnerability of the sector to losses.

6.4 Again, the real theme is of the very low volumes of land involved – indeed, a very low level of activity overall. The picture continues of a tenanted sector attracting very little new land and so vulnerable to the chance of whenever the inevitable losses of land to other uses or more direct control by a cautious owner arise. The survey of termination negotiations reported in the Appendix to last year’s Survey indicates some appetite for tenants to leave if suitable terms are offered. It is not a picture of a healthy sector.

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, sharply reducing activity in the let sector and the number of new tenancies granted. 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.

6.6 As in 2021, an increased area and number of holdings were sold on falling vacant. That appears a change from the preceding Surveys which, with the exception of 2016, have shown very few sales of previously let land in Scotland. Owners have preferred to retain land rather than capitalise on the access to value offered by the end of a tenancy or a deal with a sitting tenant. That may now be changing, at least to an extent.

6.7 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 or the sitting tenant buys the holding. Even maintaining the present size of the let sector requires the letting of new land that had not been let. Reversing the decline of the let sector demands a much stronger pattern of fresh lettings. That is a matter of choice for landowners. It is not simply a matter for the large estates or public bodies but also for smaller owner occupiers. 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. SUCCESIONS TO TENANCIES AND ASSIGNATIONS

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

7.2 5 (2, 4) successions were reported in 2022. All five holdings had a house.

Table 7.1: Succession tenancies

	2022	2021	2020	2019	2018	2017	2016	2015
Number of successions	5	2	4	0	0	1	0	9
Total area	1153	476	867	-	-	81	-	2,792
Average unit size	231	238	217	-	-	81	-	310

7.3 This is the first of these Surveys to report on assignment of tenancies. These are by voluntary agreement rather than using the statutory process of Relinquishment and Assignment. Following the indications reviewed in the Appendix to last year's Survey, the implementation of the new legislation of the Land Reform (Scotland) Act has opened such discussions between landlord and tenant, using the greater freedom of negotiation over the shape of any package and its timing. In these cases, the two assignments covered 320 acres in total, both units having a house.

7.4 However, the Survey does not identify any of the terminations of tenancy as prompted by this procedure.

8. ANALYSIS OF NEWLY LET UNITS

8.1 General

This section more closely analyses the units let in 2022, 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 247 (190, 145, 183, 302, 325, 663, 231, 273, 279, 266) acres, markedly larger than the 2021 average figure for England and Wales of 71 acres (which reflects the larger number of small areas of bare land let there). Scotland's 2016 figure was influenced by a small number of very large lettings.

8.2.2 While Scotland may historically have seen lettings as typically of farms, that is fully equipped holdings with house and steading, that is now in the past. These Surveys have for several years shown a strong trend to a high proportion of smaller, bare land lettings, as in England and Wales. This Survey again confirms just that pattern, with bare land lettings, large and small, now predominating, albeit that fully equipped units can tend to be larger. In summary:

- bare land lettings accounted for 67% (57%, 75%, 93%, 81%, 77%) of lettings decisions and 28% (37%, 34%, 79%, 33%, 60%) of the let area, averaging 103 (139, 75) acres
- there were 9 (8, 3, 1, 0) lettings of land with buildings but not a house on 28% (47%, 19%) of the let area - in 2017 these were 12% of lettings and 17% of the let area)
- the 3 (2, 5) units with dwellings accounted for 8% (10%, 15%, 7%) of lettings and 44% (16%, 47%, 19%) of the let area, averaging 1,317 (330, 437) acres.

8.2.3 Table 8.1 below indicates the different character of fully equipped lettings from the predominant bare land lettings, the more equipped units tending to be larger.

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. Wider pressures on housing, including prospective legislation in this Parliament, are only likely to compound this structural change.

Table 8.1: Analysis by Size of Holding (previous year in brackets)

Size	Bare land	With buildings	Fully equipped
Under 25 acres	3 (1)	0 (0)	0 (0)
25-49	4 (2)	0 (0)	0 (0)
50-74	7 (1)	1 (0)	0 (0)
75-99	2 (2)	1 (1)	0 (0)

100-124	1 (0)	3 (0)	0 (0)
125-149	1 (2)	0 (0)	0 (0)
150-199	2 (2)	1 (2)	0 (0)
200-299	2 (1)	3 (0)	0 (1)
300-999	2 (1)	3 (0)	2 (1)
Over 1,000	0 (0)	0 (0)	1 (0)

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 understate the true length of occupation that may be achieved where some tenancies, notably MLDTs, run on 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 as short as 9 months to a maximum of 25 (30, 40, 15, 13, 35, 35, 35, 25, 25, 38) years. In 2022, the longest letting was within a family structure.

8.3.4 Use of the Reduced Length for Longer Lettings (MLDTs, previously LDTs) – Consistent with the June Census data noted in the Appendix, this Survey found some use of MLDTs. Of the 7 (8, 12, 4, 7) MLDTs reported, 5 (6, 11, 2, 4, 8, 6, 8, 3, 7, 8) units were let for the minimum term of 10 years and only 2 (2, 1, 2, 3, 1, 3, 3, 3) for a longer term (15 and 25 years) – in 2019 none were let for a term of more than 15 years. 3 were let to tenants perceived as new entrants. While one was within a family structure, these might indicate use of the MLDT’s new entrant break clause option.

8.3.5 That continues to show that the 2011 amendment to allow LDTs for a term of 10 years (previously 15 years) is still overwhelmingly used where the MLDT 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. However, the last decade has seen more use of LDTs and now MLDTs. The June Census data shows them to have increased from 259 in 2010 and 289 in 2011 to 710 in 2017 and now a combined total of LDTs and MLDTs of 918 in 2021.

8.3.6 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.

8.3.7 5 (2, 8) of the MLDTs were of bare land covering 296 (242, 744) acres), 1 (4, 1) had buildings (212 (826, 512) acres) and 1 (2, 3) had houses (none in 2019 but 4 in each of 2017 and 2018) on 400 (660, 724) acres. While there had been no fully equipped units let in 2019, they 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 had not been shown in 2019.

8.3.8 **Re-Letting of SLDTs** - Of the 28 (14, 20, 27, 14) SLDTs that ended, 7 (4, 3, 8) were not re-let (none were not re-let in 2018). The decision made in the remaining 21 (10, 17) cases saw:

- 2 (3) re-let as an MLDT for 10 years
- 11 (2) re-let for 5 years
- 1 (1) re-let for 3 years
- 0 (0) re-let for 2 years
- 3 (0) re-let for a year
- 0 (0) reported as re-let on a year to year basis
- 3 (4) re-let for less than a year (9 months each).

8.3.9 Overall Average Term – As shown in Table 8.2 below, the average length of a new letting has fallen back to 5.08 (7.24) years. On excluding lettings for less than a year, with all the difficulties of knowing which arrangements should be counted and which not, the figure then becomes 5.48 (8.8) years.

8.3.10 Table 8.2 shows the comparison with the average length of letting in England and Wales. These figures 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 by 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 these historically different patterns appear to be converging.

Table 8.2: Average term lengths for new lettings

NB The English figures for 2022 are not yet available

No Scottish lettings were reported in 2021 or 2022 as being from year to year.

	2022	2021	2020	2019	2018	2017	2016
<i>Scotland</i>							
All lettings	5.08	7.24	6.5	3.57	4.56	3.68	7.49
Excl yr-to-yr/< 1yr	5.48	-	6.8	4.20	4.90	6.66	
<i>England and Wales</i>							
All lettings	n/a	3.03	3.42	3.21	2.90	3.97	4.48
E + W > 1 year	n/a	4.67	4.83	4.75	4.14	4.98	

8.3.11 That difference is now explored in more detail.

8.3.12 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.

8.3.13 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) was again shown in 2021 (though it had not been apparent in 2019).

Table 8.3: Previous Tenure and New Type of Tenancy

	≤5 years (SLDT)						10 years + (MLDT)					
	2022	2021	2020	2019	2018	2017	2022	2021	2020	2019	2018	2017
AHA	1	1	-	-	1	-	-	3	1	-	-	4
AHA LP	1	-	-	1	2	1	-	-	-	-	1	-
LDT	1	-	-	1	1	-	3	2	5	3	-	2
SLDT	19	7	14	18	11	31	3	3	3	1	3	2
Total	22	8	14	20	15	32	6	8	9	4	4	8
VP	3	1	1	5	3	11	2	-	-	-	1	1
GA	4	5	1	16	2	10	-	-	2		1	-
CF	2	-	-	-	-	-	-	-	-	-	-	-
Total	9	6	3	21	5	21	2	-	2	-	2	1

Table 8.4: Length of Tenancy by Previous Tenure

	2022	2021	2020	2019	2018	2017
Ex 1991 Act	1.00 ¹	27.50	40.00 ¹	-	5.00 ¹	15.00
Ex 1991 Act Ltd Partnership	5.00 ¹	-	-	5.00 ¹	5.67	5.00 ¹
Ex LDT	10.00	10.00	10.00	10.50	10.00 ¹	10.00 ¹
Ex SLDT	4.13	4.60	4.25	3.31	3.35	2.53
Ex Grazing Arrangement	3.69	3.00	6.25	3.00	6.67	3.55
Ex Contract Farming	3.00	-	-	-	-	-
Ex Vacant Possession	7.60 ²	2.00	5.00	3.60	5.50	2.67

¹ – only one unit

² – an average of two long let units and 3 units let very short

8.3.14 Term by Level of Fixed Equipment – The average term by the extent of fixed equipment on a holding showed the normal pattern whereby the length of term increases with the level of fixed equipment as shown by previous Surveys and again consistent with that from England and Wales. 2019's figures were an aberration.

Table 8.5: Length of Tenancy (years) by Fixed Equipment

	2022	2021	2020	2019	2018	2017	E/W 2021
Bare land	3.57	3.57	5.40	4.31	3.32	2.42	2.57
Land with buildings	5.67	9.75	16.00	5.00	-	6.29	4.28
House and land	11.67	17.50	7.40	3.00	9.80	10.52	9.60

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. Scotland has attempted it statutorily for the break clause provisions of MLDTs but that endeavour with its formal complexity does not assist this Survey. Accordingly, respondents were simply asked:

- 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 31 (18, 22, 43, 20) cases where the question was answered, 6 (2, 1, 11, 5) lettings were to someone perceived as a new entrant. Looking more appropriately at where the tenant changed, of the 12 (6, 9, 17, 12) cases where the new tenant had not previously farmed the land, 6 (2, 1, 11, 4) were let to a new entrant: 50% (33%, 9%, 65%, 33%).

9.4 This avenue of entry is evidently limited by the number of opportunities to win tenancies. Experience shows that more opportunities overall yield more new entrants taking lettings, even with the caution that an owner might have about letting a farm to someone seen as a new entrant. Past Scottish surveys have found that, 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 is positive, it has, in reality and as here, only been out of a very small number of actual cases. In 2022, it was an increased proportion out of a small number of opportunities with 4 (1, 0, 2, 4) coming from the private sector that is the necessary long term source of potential lettings for the let sector to grow.

9.5 While this Survey sees use of MLDTs (as also shown by the Scottish Government's June census data), 3 of the 6 new entrants were granted MLDTs – for the first time possible evidence of them being used for the 5 year break clause available where the letting is to a new entrant.

9.6 More generally, these figures also touch on the question of what would be desirable levels of entry to the let sector. If, over time, 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.

9.8 Length of Term for New Entrants – The average length of letting to a new entrant was 9.3 (4, 10) years. Over the years the average length of letting to a new entrant has been

longer than the overall average. The 2019 average had been 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, a picture also seen in England and Wales.

Table 9.1: Lettings to new entrants

	2022	2021	2020	2019	2018	2017	2016	2015	2014
Average term	9.33	4.00	10.00	5.13	7.62	7.50	-	11.00	12.50
Average size of holding	631	151	367	317	120	790	-	680	730
% of average area	255%	77%	229%	173%	40%	243%	-	294%	267%

Notes

- The nil figure for 2016 was likely to have been the result of more coming forward for the start of Basic Payment in 2015.
- 2020 had just one letting.
- 2022's large average area covers both a unit of over 3,000 acres and a walled garden of 3 acres.

9.9 Average Size – 2022 saw a return to the usual position whereby new entrants have tended to take larger than average holdings, albeit distorted by the figures in the actual sample.

