

Tenancies – do we really need change?

STFA members have rejected any radical shake up of tenancy legislation. Results from the survey recently carried out by STFA has shown that while respondents were willing to re-examine the way in which LDTs and SLDTs were operating, particularly in relation to length of term and fixed equipment obligations, there is clearly no appetite for fundamental change.

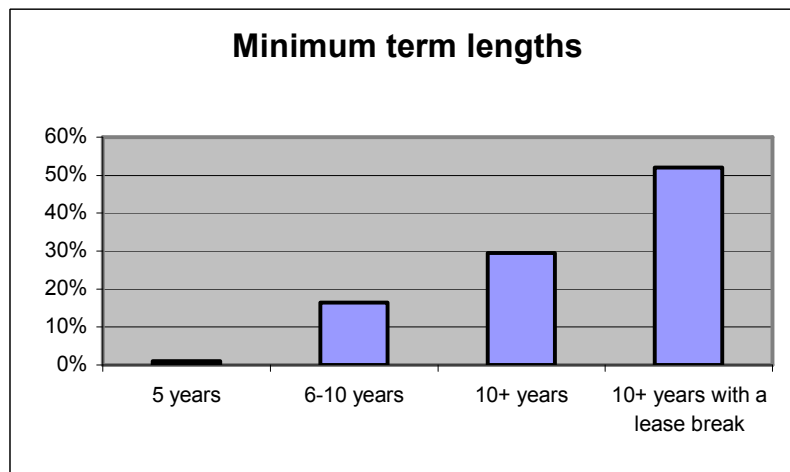
The STFA questionnaire has attracted a tremendous response with over a third of the membership replying, with comments and telephone calls providing more useful evidence

Major Change Required?

When asked what changes should be made to the existing system, 60.5% elected to make minor changes to SLDTs and LDTs with 35% advocating more radical change; such as the replacement of SLDTs with cropping/grazing lets and LDTs changed into a new form of more flexible tenancy. Although there were a number of comments to the effect that SLDTs were not suitable as whole farm letting arrangements and their use should be restricted to short term cropping lets, the prevailing view was to retain the existing structure whilst making adjustments to length and fixed equipment provisions.

Tenancy Term Lengths

However, even those in favour of more flexible tenancy arrangements wished to see substantial minimum term lengths. 93% of respondents voted in favour of new leases having a minimum term. Although opinions varied, minimum terms of more than 10 years were favoured with over half opting for leases of over 10 years with a break clause incorporated.

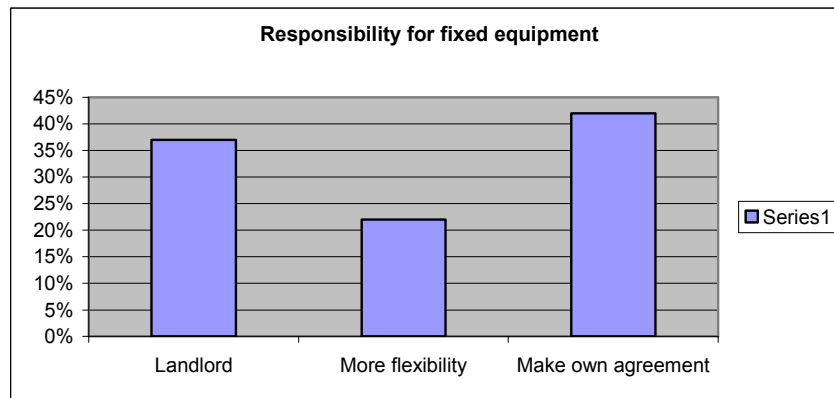


A recurring theme throughout the survey was the long-term nature of farming and the need for security over a long lease to encourage investment on behalf of the tenant in stock and crop as well as in the farm. As practical farmers, tenants are only too well aware of the time it takes to build up a farming business and the need for forward planning. Respondents also expressed concern at the pressure a tenant may be subjected to when the time came to renew a short-term lease.

Fixed Equipment

Issues around fixed equipment provisions generated most comment. What is perhaps surprising, is that most tenants would prefer to be able to invest in the fixed equipment themselves rather than wait for a reluctant landlord to do so, providing, of course that there was adequate provision for compensation at waygo and the rent reflected the tenant's contribution. In general, there would seem to be a desire for greater flexibility in who provides the fixed equipment with views almost equally divided as to whether the landlord should continue to have full responsibility for fixed equipment, whether there should be greater flexibility or whether parties should be free to make their own agreements.

What is evident is that tenants see the current legislation surrounding fixed equipment as being too restrictive and as a disincentive to letting land, although many of the issues could be resolved by clarifying what the legislation in the 2003 Act actually means



There is no doubt that there is a shortage of available land to rent, a farm to let advertised in the farming press is a rare occasion and excites a huge amount of interest, but the underlying reasons are complex and will not be merely solved by the stroke of a pen through legislation.

That economic reasons play an equally important part in the decision not to rent out land is evident south of the border where security of tenure is being inexorably eroded by Farm Business Tenancies that permit virtual freedom of contract. Here the trend is away from formal tenancies towards contract farming and other ways of letting land. In the short-term landowners will see a greater return from letting out houses and buildings separately with the land on grazing or cropping lets while still enjoying the taxation benefits of continuing to "actively farm". Moreover, uncertainty as to the future direction of the Single Farm Payment is encouraging landowners to adopt a wait and see approach.

There is a current mood in some quarters to scrap SLDTs and LDTs and start again, but simply re-writing agricultural legislation will not solve the problem and may well store up problems for future generations. Farming is a long term occupation, especially in Scotland with our strong livestock sector and we must make sure that in a knee jerk reaction, we do not turn the clock back 60 years and lose the hard won stability and security for which our forefathers fought so hard.