

The "Birth, Life and Death" of an Agricultural Lease

Location & Date

Date: 26th September 2019

Time: 09:30 - 16:05

Location:

The Faculty of Advocates
The Mackenzie Building
Old Assembly Close
High Street (behind the Fringe office)
Edinburgh
EH1 1QS

CPD Hours: 5hours

Agricultural Holdings Law affects many millions of pounds worth of land across Scotland and can have significant effects upon numbers of 'commercial' land transactions.

This innovative and thematic seminar programme has been designed jointly by the Faculty of Advocates and the Law Society of Scotland. No seminar quite like this has taken place for many years.

We invite counsel and solicitors to join together amongst the acknowledged multi-disciplinary experts in this important area of law for guidance on each possible stage of the birth, life and death of an agricultural lease.

By attending to this course, you'll get a comprehensive grounding in Agricultural Holdings Law, suitable for those with little knowledge of the subject, but also an invaluable refresher and overview for those who already practice in the area.

This is a unique, one-off, tailored opportunity to learn from the experts and peers across Agricultural Law practice in Scotland.

Are you a solicitor experienced in and keen to develop your agricultural law practice? If so you may want to think about becoming an accredited specialist in this area. To find out more see Accredited Specialisms

Learning outcomes

At this event you will:

- Gain a better understanding of the significance of Agricultural Holdings Law, categories of leases and security of tenure
- Approach understanding of agricultural leases in an easily digestible format and gain useful insight into each possible type of lease, their significance, and how they change over time
- Reflect on the latest applicable legislation, case-law, and examples from across both advocates' and solicitors' practices to add to your expertise

Testimonials

"Thoroughly enjoyed it. The non-legal topics were of interest"

Agriculture conference 2018

"There was a very effective combination of black letter and business sector material - the programme was well balanced."

Agriculture conference 2018

Programme Details

09:30 - 10:00 Registration and refreshments

10:00 - 10:15 Welcome and introduction

- General overview of the day
- Valuations and significance of Agricultural Holdings.
- Categories of leases and Security of Tenure
- Relevance of the TFC and codes of practice

Speaker

Mike Blair, Partner, Land and Rural Business, Gillespie Macandrew

Mike is part of our leading Land and Rural Business team and is one of the best recognised lawyers in Scotland in this sector. He has dealt with an exceptionally wide variety of transactions over many years, advising many different clients over a broad spectrum of issues. As well as agriculture and estates, his work includes forestry, sporting rights, business structures, tax and succession, planning, renewables and environmental issues. Mike has provided advice on farm tenancy issues to a number of public bodies.

Mike is the contributing author on Agricultural and Sporting Leases for the Scottish Universities Law Institute Textbook on 'Leases' (W.Green 2015), and has contributed to several other textbooks. He has chaired the Law Society's Agriculture and Rural Law training conference on many occasions and spoken on a variety of topics at many seminars. Mike operates mainly from our Perth office - close to many of his major clients. He is a member of the Law Society of Scotland's Environmental Law Committee, and the Agricultural Law Association.

10:15 - 10:45

Commercial background, partnerships and subsidies

Speakers

Charlotte Maclean, Senior Associate, Rural, Valuations, Galbraith

With over 9 years' experience in all aspects of rural property in Scotland, focusing on rural and urban fringe Estate management, Charlotte currently manages over 10,000 acres of rural land on the outskirts of Glasgow on behalf of private clients, family partnerships, Trusts and PLCs. Charlotte provides advice on all day to day Estate matters, as well as being involved in more strategic decision making issues with clients, letting opportunities, liaising with tenants on various lease/management issues, dealing with Estate staff, insurance claims, investigating renewables opportunities and disposal of redundant property. Charlotte is also a partner in her family's arable farming business in Moray in her spare time, which she runs from Perthshire together with her husband.

Iain Gordon, Partner, EQ Chartered Accountants

Our Partnership Chairman, Iain has been a stalwart of our Forfar office for over 20 years, and he is acknowledged by clients and fellow professionals alike as a leading light in the profession. Combining technical excellence with an empathetic approach, he is very much a "go to" person for advice on Capital Gains Tax and Inheritance Tax, as well as Stamp Taxes and planning with Pensions. Succession planning, business restructuring and dispute resolution all fall within his skill set and he has developed a reputation for delivering imaginative tax focused solutions for the owner managed business sector and high net worth individuals.

Iain acts for numerous Agricultural Co-operatives as well as some of the most forward thinking farmers and rural businesses in the North East of Scotland and beyond, reflecting his particular expertise within the Agricultural sector, and the rural economy at large.

10:45 - 11:15

"Birth": Formation of leases

- Intended creation: So what are '1991 Act' and '2003 Act' Leases

Speaker

Michael Yellowlees, Partner and Head of Rural Property, Lindsays



Michael is a Partner and Head of our Rural Services team. He specialises in rural property law, including buying, selling and leasing all types of rural property, with particular expertise in the acquisition and disposal of high value farms and estates. In addition, he provides clients with specialised advice in relation to agricultural law, crofting law, feudal dignities, mineral rights, renewable energy projects, servitudes and sporting rights.

Michael's clients include a significant number of large landed estates, such as the Argyll, Lochiel, Strathconon, and Murthly Estates, as well as numerous private individuals and corporate bodies with rural interests throughout Scotland. He also represents a number of renewable energy companies, including Gamesa Energy (UK) Limited, a Spanish Energy Company, in relation to various wind farm, hydro and biomass projects across Scotland.

Michael has a doctorate in Scottish History, which complements his professional interest in Scots property law. Michael is a member of the Crofting Law Group and the Scottish Renewables Forum. He handles rural property transactions and developments, with a niche grasp of heraldic rights. Michael is a Director of the Scottish Barony Register.

11:15 - 11:30

Refreshments and networking

11:30 - 12:00

"Birth": Formation of leases

- Accidental creation
- Morrison Low, Serup, Wight
- Morphing from one type to another in 2003 Act leases

Speaker

Neil MacDougall, Westwater Advocates



Neil MacDougall called to the Bar in 2011. He is a graduate of the University of Glasgow. Prior to calling he worked as a solicitor for four years practicing in the commercial sphere.

Neil's time as a solicitor helped him to develop a keen eye for detail and a strong sense of commercial awareness. This enables him to provide not only technical but practical advice. Whilst his background makes him particularly well placed to advise on commercial matters he is keen to establish a broad ranging civil practice. His main areas of practice are: commercial law; property and agricultural law; and employment law.

Neil regularly conducts commercial law actions at all levels ranging from the Sheriff Court to the Court of Session Commercial Court. His approach to commercial actions is a pragmatic one. In advising on commercial matters he attempts to highlight not only the strengths and weaknesses of a case but also the commercial risks involved. That comprehensive approach allows the client to make a commercially sensible decision; be that settling an action or appealing a decision that has gone against them. He is a member of the stable's commercial dispute resolution group.

Neil has developed a keen understanding of property and agricultural law since calling. He had

a working knowledge of commercial property from his time as a solicitor but that has expanded to encompass rural and agricultural aspects. His experience of property and agricultural law is spread over the Sheriff Court, the Scottish Land Court, the Lands Tribunal for Scotland and, only recently, the European Court of Justice. He is a member of the stable's property and environmental law group.

Neil is also regularly instructed in employment law. He has acted for both employer and employee at all stages of an employment law action including the Employment Tribunal at first instance to appealing to the Employment Appeal Tribunal.

12:00 - 12:30

"Life": The ongoing lease

- Fixed equipment
- Maintenance and Improvements
- Eligibility for compensation

Speaker

John Mitchell, Partner, Anderson Strathern



John leads the rural land and business team and acts in the sale, purchase and lease of estates, farms and forests. His clients include major landowners and he is often instructed in very high profile transactions. He is accredited by the Law Society of Scotland as a Specialist in Agricultural Law. He advises on a wide range of rural matters, including agricultural law, land reform, rural development and diversification, conservation, natural resources, energy projects, telecommunications and utilities, sporting and fishing rights. John is also a member of our Brexit group.

John is a member of the Scottish Land & Estates Legal Group and Agricultural Holdings Technical Group. He is a member (and former legal adviser) of the Scottish Agricultural Arbiters and Valuers Association. He is ranked Band 1 for Agricultural & Rural Affairs by the legal directories Chambers & Partners and the Legal 500 and regularly speaks at conferences and contributes to the media on rural issues.

John has an empathy for rural Scotland. He is innovative and collaborative in his approach. From a farming background, John brings a pragmatic and well informed approach to all his projects and has an innate understanding of the challenges faced in the rural sector.

12:30 - 13:15

Lunch and networking

13:15 - 13:45

"Life": The ongoing lease

- Rent review
- Resumption /partial NTQ

Speaker

Robert Sutherland, Terra Firma Chambers



Robert Sutherland specialises in all aspects of property and public law. He is a leading practitioner in agricultural and crofting matters, conveyancing and housing law. He is regularly instructed in connection with servitudes and access disputes, waste management and other environmental law issues, planning, and fishing law. Robert has been frequently instructed by petitioners and respondents in judicial review cases in the Court of Session. He is a member of the Chartered Institute of Arbitrators.

Robert is ranked Band 1 in Chambers UK and Tier 1 in Legal 500.

In Chambers UK (2018) Robert is described as "unquestionably one of the leading people in the rural agricultural land and rural business speciality at the Bar". "He's good with clients, very effective in court, can communicate clearly with clients and is able to have those difficult conversations with clients that you need to have".

13:45 - 14:30

"Life": Succession and assignation

- How leases can go on and on

Speaker

Petra Grunenberg, Partner, Accredited Specialist in Agricultural Law, Blackadders



Petra heads up the Blackadders' Rural Land and Business Team and sits on the Management Board. She is accredited by the Law Society of Scotland as a specialist in Agricultural Law and is a Legal 500 Recommended Lawyer and a ranked leading individual in UK Chambers & Partners 2018. Petra has experience in a wide variety of matters and deals with all legal aspects of farming, rural business and related commercial property matters. Petra acts for a large number of landowners, tenants, developers and lending institutions throughout Scotland.

Indicative Work Experience

- *Dealing with complex land acquisitions, tenancy arrangements, wayleaves and deeds of servitudes.*
- *Advising clients on joint venture agreements, option agreements, leases and servitude and access agreements in relation to renewable projects, including onshore wind farm development, biomass and AD plant, hydro schemes and battery storage sites.*
- *Advising clients on the legal aspects, including security arrangements, of lending and secured funding.*
- *Advising clients on partnership agreements, complex succession planning and Inheritance Tax.*
- *Advising clients on assignation of agricultural tenancies under the new agricultural holdings legislation and associated planning for succession to tenanted land.*

External Roles

- *Member of the Agricultural Law Association*
- *Member of the Scottish Tenant Farmers Association*

14:30 - 14:45

Refreshments and networking

14:45 - 15:30

"Death": Termination

- 1991 Act leases- NTQ and ss.22/24
- 2003 Act leases
- Timings and statutory extensions
- How to move from SLDT to MLDT

Speakers

Emma Robertson, Senior Associate Rural Business and Renewables, Shepherd and Wedderburn LLP



Emma advises on all aspects of agricultural tenancies and is accredited by the Law Society of Scotland as a Specialist in Agricultural Law. She also acts for landowners in the purchase and sale of estates, farms, forestry and other rural properties. In renewables, she advises landowners and developers on a wide variety of projects including wind turbine developments, hydro schemes and biomass systems.

Emma is a member of the Society of Advocates in Aberdeen.

Admitted in Scotland.

Graeme Henderson, *Hastie Stable*
Graeme called to the Bar in 1987.

His practise is centred on Land Disputes and Media Law.

He has been engaged in a number of cases involving agricultural issues as well as agricultural holdings.

Agricultural Holdings cases that he has been involved in include:

Alexander v Royal Hotel Caithness 2001 SLT 17

Palmer's Executors v Shaw 2004 SC 408

McDonald v O'Donnell 2008 SC 189

Drummond Trs v Baird 2013 SCLR 156.

15:30 - 16:00

Open forum masterclass

- Discuss practical and real scenarios that may arise from time to time in practice and share their thoughts on your experiences and questions

Speaker

Sir Crispin Agnew of Lochnaw Bt QC, *Westwater Advocates*

15:30 - 16:05

Closing remarks

Prices

prices exclude VAT

Member:	£200.00
New member:	£166.67
Accredited Paralegal:	£166.67
Trainee:	£166.67
Unemployed member:	£158.33
Non-member:	£204.17