



SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

**Invitation to apply to become a member of the Tenant Farming Commissioner's Panel of Valuers**

The Land Reform (Scotland) Act 2016<sup>1</sup> introduces a new process that allows 1991 Act tenants to offer to relinquish their tenancy to the landlord in exchange for statutory compensation. Legislation to implement the new Relinquishment and Assignment provisions was laid before Parliament<sup>2</sup> on 11<sup>th</sup> December 2020 enabling the legislation to be enacted by 28 February 2021.

It is a requirement of the 2016 Act that an independent valuer, who is able to calculate the amount payable by the landlord to the tenant for the relinquishment of the tenancy under Act, is appointed by the Tenant Farming Commissioner (TFC).

As part of the process, tenants and landlords will be invited to agree their preferred valuer - and the norm will be for the TFC to appoint that valuer. If the tenant does not notify the TFC of a preferred valuer, the TFC will appoint a valuer from a panel of valuers to undertake the valuation.

The TFC would therefore like to establish a panel of suitably qualified and experienced valuers who are able to conduct such valuations.

If you are a valuer and would like, as an individual, to apply to become a member of the TFC's panel of valuers, please submit an application that provides evidence of each of the requirements specified in the attached document, namely:

1. Understanding the requirement and commitment to meet specified timeframes
2. Relevant knowledge, experience and quality assurance
3. Professional qualifications & Indemnity insurance
4. Commitment to duty of disclosure & professional standards

Applications should be emailed to the Tenant Farming Commissioner at [tfc@landcommission.gov.scot](mailto:tfc@landcommission.gov.scot)

The deadline for applications is 29th January 2021.

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<sup>1</sup> <http://www.legislation.gov.uk/asp/2016/18/part/10/chapter/7/enacted>

<sup>2</sup> <http://www.legislation.gov.uk/id/ssi/2020/428>

<http://www.legislation.gov.uk/id/ssi/2020/430>

<http://www.legislation.gov.uk/id/sdsi/2021/9780111048047>

## 1. Understanding the requirement and commitment to meet specified timeframes

Applicants must demonstrate that they understand the requirements of the valuation as described in the legislation.

The legislation specifies that the TFC must appoint a valuer within 28 days of receiving a copy of the tenant's Notice of intention to relinquish. If the tenant, in agreement with the landlord, has not notified the TFC of a preferred valuer, the TFC will appoint a valuer from the panel to undertake the valuation.

As the tenant is responsible for meeting the cost of the valuation the TFC intends to invite relevant members of the panel to submit a quote for the required valuation. The TFC will appoint a valuer from those who provide a quote – this is to ensure value for money for the tenant. Those valuers invited to submit a quote would usually be determined by locality, unless specific expertise is required.

It is in the interests of the tenant to provide comprehensive information at the outset as this will enable valuers to quote effectively and accurately within the given timeframe and help to ensure the valuer's time is used to maximum effect. Guidance on the information required will be published, however tenants will be required to submit the following information as a minimum requirement along with their Notice of relinquishment:

- Details of the landlord and tenant
- Rent payable, when it was last varied and details of the last review
- List of tenant's improvements (and whether the list has been agreed with the landlord)
- Copy of the lease and any variations to the terms which have occurred over time
- Plan and extent of the holding

As the TFC must appoint a valuer within 28 days of receiving the Notice, it is anticipated that quotes from valuers will require to be returned to the TFC within 3 working days.

Applicants to the panel must indicate their ability and willingness to submit a fee plus expenses quote when invited, based on the information provided, within 3 working days.

The TFC will issue a letter of appointment to the successful valuer setting out what they have to do within the timescale. Once appointed, the valuer will agree Terms of Engagement with the tenant.

The valuer must submit their Notice of assessment within 8 weeks of receiving the appointment from the TFC. Within this period the valuer must also invite the landlord and the tenant to make written representations about the assessment and have regard to any such representations.

It is essential that prospective panel members are able to work to the specified timelines for quoting (3 days) and completing assessments (8 weeks). Applicants must acknowledge these requirements and indicate their commitment to complete the necessary work within the given time specifications.

## 2. Relevant Knowledge, Experience and Quality Assurance

Applicants must provide evidence to show that they possess the necessary knowledge, skills and experience suitable for assessing the

(i) value of agricultural land, both with vacant possession and where subject to agricultural holdings, and

(ii) compensation that may be payable between tenants and landlords of such holdings.

The valuer is to act as an expert, not an arbiter, and in an independent capacity.

Applicants must demonstrate that they are familiar with the full requirements of the valuation process in calculating the amount payable by the landlord to the tenant as compensation for the tenant quitting the tenancy. Applicants should provide evidence of their knowledge and expertise on being able to conduct all aspects of the valuation as summarised below.

Applicants must be able to assess:

- The value of the land to which the holding relates if sold with vacant possession.
- The value of the land to which the holding relates if sold with the tenant still in occupation.
- The amount of compensation to which the tenant would be entitled on waygo under statute.
- The amount of compensation that the landlord may be entitled to recover under statute.

In addition, applicants must be able to demonstrate that they are able to show *how* they calculate each of the values and amounts and be familiar with the requirements for the submission of the Notice of assessment as specified in the 2016 Act.

Applicants should also demonstrate that they have sufficient current local and national knowledge of relevant markets and provide information on specific expertise and experience with regard to different types of farm and geographical location(s).

Applicants should explain how they ensure quality of their work and provide information on any quality assurance process.

In summary, applicants must demonstrate that they have all the necessary skills, understanding and knowledge to undertake the valuation competently.

### 3. Professional Qualifications & Professional Indemnity insurance

Applicants must be a professionally qualified member of an appropriate body, such as Scottish Agricultural Arbiters & Valuers Association (SAAVA), Central Association of Agricultural Valuers (CAAV) or the Royal Institution of Chartered Surveyors (RICS).

Applications should also provide details of their professional indemnity insurance.

### 4. Commitment to Duty of Disclosure & Professional Standards

It is essential that the valuer appointed to carry out a valuation is independent of the landlord and the tenant and it should be noted that both have the right to object to the person appointed by the TFC. Disclosure of actual or possible conflict is therefore of vital importance in being able to assess whether the valuer is independent of the landlord and the tenant, and applicants must acknowledge the requirements outlined below and state how they intend to comply with the requirement to disclose conflicts of interests.

When a valuer on the panel is invited to quote for a valuation by the TFC they will be asked to disclose any circumstances that give rise to justifiable doubts as to their independence in carrying out a valuation. They will be required to disclose any involvements they may have had with the parties and/or the property or any other matter which is sufficiently material as to call their impartiality into proper question.

The duty of disclosure is broad and the onus is upon the potential appointee to disclose such information, whether in relation to the holding or in relation to any of the parties, which could

possibly be seen as affecting their independence, even if they do not believe that such independence is actually affected as a result of the circumstances. Any potential appointee cannot choose not to disclose information because they believe it does not affect their ability to act independently and impartially. The valuer must put themselves in the shoes of the parties and ask whether, as a result of any facts or circumstances in existence, and taking account of the cultural and commercial background and any other factors which may affect the parties' perceptions, their independence or impartiality might be placed in question.

A declared financial or business relationship between a potential appointee and one of the parties will be grounds for not making the appointment because of the potential for lack of independence or impartiality.

The TFC will appoint an individual in their own right, not the firm or practice of which they may be a member or employee. There will be cases where the proposed individual has not personally acted for either of the parties but is a partner or employee in a firm that has done so, and accordingly, such professionals will be called upon to make the requisite checks within their organisations and to declare any relationship between their firm and the parties.

## 5. Selection Procedure

Selection will be based on the following criteria and weightings. Applicants may be contacted to verify information or to seek clarification on any aspect.

<b>Evaluation Criteria</b>	<b>What we are looking for</b>	<b>Weighting</b>
Understanding the requirement & commitment to timeframes	Full and clear understanding of the purpose of the legislation and provision of the valuations required. Ability to deliver within the specified timeframes.	<b>20%</b>
Relevant Knowledge, Experience & Quality	Clear explanation of specific knowledge and experience including extent/depth of experience and where relevant specialisms in for example farm types and/or location. Demonstration of a professional practical approach designed to achieve quality and value for money. Information on quality assurance process.	<b>60%</b>
Professional qualifications & Insurance	Demonstration of training and qualifications relative to the requirements of the specification. Professional Indemnity Insurance.	<b>10%</b>
Disclosure & professional standards	Explanation of measures to be taken to demonstrate compliance with disclosure requirements and compliance with professional standards.	<b>10%</b>

Please note that being selected to sit on the panel does not guarantee any work or that you will be asked submit quotes for work.

If you require any further information please contact:

Sarah Allen  
 Head of Tenant Farming, Scottish Land Commission  
 E: [sarah.Allen@landcommission.gov.scot](mailto:sarah.Allen@landcommission.gov.scot) T: 07771 381364