

# **AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### **Part 4: Compensation under Agricultural Tenancies**

##### ***Section 44: Amount of compensation where grant made to tenant***

138. This section substitutes new text for part of section 36(3) of the 1991 Act. Previously, when calculating the compensation payable under Part IV of the 1991 Act to a tenant for a new improvement, section 36(3)(b) provided for the whole amount of any grant which had been or would be paid to the tenant in respect of the improvement to be taken into account (the effect of which was to reduce the amount of compensation payable by the landlord to the tenant).
139. The effect of section 36(3)(b) as now amended is that, subject to any conditions of the grant scheme itself, the assessment of value of an improvement which is attributable to a public grant will depend on the extent to which the landlord and tenant respectively contributed to the cost of the improvement. Where any grant has been or will be paid to the tenant then, in calculating the compensation payable to the tenant, the grant is only to be taken into account where both landlord and tenant have contributed towards the cost of the improvement. In such cases, only that proportion of the grant equal to the tenant's contribution to the cost of the improvement expressed as a proportion of the total of the tenant's contribution and the landlord's contribution combined shall be taken account of. For example, where an improvement costing £12,000 is financed by a contribution of £6,000 from the tenant, £3,000 from the landlord and £3,000 by way of grant then the portion of the grant to be taken account of in assessing the compensation payable to the tenant under section 36(1) of the 1991 Act is £2,000 (i.e. the £3,000 public grant award is apportioned between tenant and landlord in the same ratio as their own contributions to the improvement: in this case a ratio of 2 : 1).