

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

---

## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### **Part 6: Rights of Certain Persons Where Tenant is a Partnership**

##### ***Section 70: Rights of certain persons where tenant is a partnership***

231. This section applies where the conditions of subsections (1) and (2) are complied with.
232. Subsection (1) is complied with where a partnership is tenant of an SLDT, an LDT or a 1991 Act tenancy where the lease constituting that tenancy was entered into on or after this section came into force, namely 27<sup>th</sup> November 2003.
233. Subsection (2) is complied with where the partnership comprises at least one partner of a type representing the landlord's interests (see subsection (2)(a)) and at least one other partner who does not (see subsection (2)(b)).
234. Partners who represent the landlord's interests are defined in subsection (2)(a) as being the landlord, an associate of the landlord (subsection (8), read with section 71, identifies when a person is an associate of the landlord for the purposes of this section and section 72), or a partnership or company in which the landlord has a relevant interest (subsection (7) identifies when a landlord has a relevant interest in a partnership or company for the purposes of this section and section 72)).
235. Where both subsections (1) and (2) are complied with, then section 70 confers the following rights upon partners who do not represent the landlord's interests (i.e. the type specified in subsection (2)(b)). First, subsection (3) confers upon them the right to exercise or enforce, as if tenant in their own right, any right of a tenant under the 2003 Act and the 1991 Act.
236. Second, subsection (6) confers upon them the right to become tenant under the tenancy in their own right in circumstances where subsection (5) applies. This occurs where the tenancy is purportedly terminated as a consequence of dissolution of the partnership in accordance with the partnership agreement or due to the actings of, or renunciation or breach of the tenancy by, a partner of the type specified in subsection (2)(a).
237. Subsection (9) provides the means for the scope of subsections (7) and (8) to be modified as necessary by statutory instrument. Any such instrument would be by affirmative resolution.