



# Agricultural Holdings (Scotland) Act 2003

## 2003 asp 11

### PART 4

#### COMPENSATION UNDER AGRICULTURAL TENANCIES

### CHAPTER 1

#### COMPENSATION FOR IMPROVEMENTS

#### *1991 Act tenancies*

#### **43 Agreements as to compensation for improvements**

(1) After section 33 (improvements) of the 1991 Act there is inserted—

#### **“33A Agreements as to compensation for improvements**

Where the tenant has carried out an improvement—

- (a) specified in Part II or III of Schedule 5 to this Act; and
- (b) by executing work which the landlord was required, at the time the lease was entered into and by virtue of section 5(2)(a) of this Act, to execute in order to fulfil his obligations under the lease,

any term of the lease or of an agreement between the landlord and tenant made before the coming into force of this section which purports to provide that the amount of compensation payable to the tenant for the improvement is less than the amount of compensation to which the tenant is entitled under this Part of this Act for the improvement (or that no compensation is payable) shall not apply in relation to such part or proportion of the improvement as the landlord would have been so required to carry out in order to fulfil those obligations.”.

(2) The following provisions of that Act (which relate to agreements as to compensation for improvements) are repealed—

- (a) in section 34, paragraph (b) of subsection (4);
- (b) in section 37, subsection (2); and

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*Status: This is the original version (as it was originally enacted).*

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(c) in section 38, subsection (5).

(3) In section 38 (notice required of certain improvements) of that Act, after subsection (2) there is inserted—

“(2A) Subsection (1) above shall not apply in the case of an improvement mentioned in subsection (1)(c) above if the improvement was carried out by executing work which the landlord was required, at the time the lease was entered into and by virtue of section 5(2)(a) of this Act, to execute in order to fulfil his obligations under the lease.”.

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

In section 36 (amount of compensation) of the 1991 Act, in subsection (3), for the words from “improvement” in the first place where it appears to the end there is substituted “improvement—

- (a) there shall be taken into account any benefit which the landlord has agreed in writing to give the tenant in consideration of the tenant carrying out the improvement; and
- (b) where a grant has been or will be made to the tenant in respect of the improvement, subject to the conditions of the grant—
  - (i) if either the landlord or tenant has not made or will not make a contribution towards the cost of the improvement, or neither of them has made or will make such a contribution, the grant shall not be taken into account;
  - (ii) in any other case, there shall be taken into account such proportion of the grant as equals the proportion of the contribution by the tenant towards the cost of the improvement as a proportion of the total of his contribution added to that of the landlord.”.