

AGRICULTURAL HOLDINGS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

Part 4: Compensation under Agricultural Tenancies

Section 47: Amount of compensation

148. Subsection (1) provides that the amount of compensation payable to a tenant under an SLDT or LDT is to be such sum as fairly represents the value of the improvement to an incoming tenant (as section 36(1) of the 1991 Act provides in respect of 1991 Act tenancies).
149. The effect of subsection (2) is that in ascertaining the amount of compensation payable to a tenant of an SLDT or LDT under section 45(1) of the 2003 Act the same matters are to be taken into account as are to be taken into account in ascertaining the amount of compensation payable to a tenant of a 1991 Act tenancy. Subsection (2) is in almost identical terms to section 36(3) of the 1991 Act as amended by section 44. Subsection (2)(a) provides that account is to be taken of any benefit which the landlord has agreed in writing to give the tenant for carrying out the improvement. Subsection 2(b) provides that, subject to any conditions of the grant scheme itself, 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 into account.
150. Any injury to or deterioration of the land in contravention of a term of the lease or of any agreement as to the method of cropping the arable lands is to be taken into account in ascertaining the compensation payable under section 45(3) of the 2003 Act, except insofar as the landlord has recovered damages in respect of that injury or deterioration.