

LAND REFORM (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 3 the Crofting Community Right to Buy

Section 68: Land which may be bought: eligible croft land

247. This section defines the land which may be bought under Part 3 (“eligible croft land”).
248. Subsection (2) defines the land and interests in land which are to be classed as eligible croft land. It does so in a way that includes all land which is subject to crofting tenure and regulation. The definition recognises that salmon fishings and mineral rights are part of the land unless their ownership has been separated from the land. It encompasses salmon fishings in inland waters within or contiguous to eligible croft land, as defined in subsection (2)(a) to (c), if these fishings are owned separately from the land. The definition also includes mineral rights on or under eligible croft land, as defined in subsection (2)(a) to (c), where such mineral rights are owned separately from the land.
249. Subsection (3) provides that land will not be eligible croft land if it is a croft occupied or worked by the owner of the croft or a member of that owner’s family.

Section 69: Land which may be bought: salmon fishings and mineral rights

250. This section places limitations on the timing of purchases of eligible croft land which consists of salmon fishing rights or mineral rights.
251. Subsection (1) provides that a crofting community body may apply to buy mineral rights or salmon fishings either when it is buying the eligible croft land under which the relevant mineral rights lie or from which the relevant salmon fishings can be exercised or during a relevant period following a successful application to purchase that eligible croft land. It also provides that a purchase during the relevant period will be possible only if the eligible croft land remains in the ownership of the crofting community body.
252. Subsection (3) defines relevant period for the purposes of subsection (1) as a period running from the date on which Ministers agreed to the right to buy application for the purchase of the land to which the mineral rights or salmon fishings relate. In the case of salmon fishings the period expires one year after the purchase of the eligible croft land is completed and in the case of mineral rights five years after that date.

Section 70: Land which may be bought in addition to eligible croft land

253. This section defines eligible additional land and eligible sporting interests which may be bought through the exercise of the crofting community right to buy and sets the period during which such sporting interests may be purchased.
254. Subsection (1) provides that when a crofting community body is buying eligible croft land under Part 3 it may also buy eligible additional land.

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255. Subsection (2) provides that when a crofting community body is buying or has bought eligible croft land under Part 3 it may also buy eligible sporting interests in that land.
256. Subsection (3) specifies the period during which the crofting community body may apply to purchase eligible sporting interests and provides that such interests may be acquired only if the crofting community body retains ownership of the related eligible croft land. The period is specified as running from the date on which Ministers consented to the purchase of the eligible croft land until five years after the date on which the purchase was completed. This subsection also excludes the use of this right to buy to acquire eligible sporting interests leased back to the former owner under section 83.
257. Subsection (4) defines eligible additional land as land which is contiguous to eligible croft land and owned by the same person. It also makes clear that salmon fishings and mineral rights associated with eligible additional land may not be purchased under Part 3. The subsection defines “eligible sporting interests” as being the rights of a person other than the owner of eligible croft land under any lease or other contract to shoot or fish on that land.
258. Subsection (5) excludes rights under a lease of salmon fishings from being eligible sporting interests and thus ensures that existing formal management arrangements for salmon fishings need not be disturbed by a change of ownership in the land to which the rights relate.

Section 71: Crofting community bodies

259. Subsection (1) prescribes that a crofting community body must be a company limited by guarantee and lists the requirements which must be included in its memorandum and articles of association.
260. Subsection (2) allows Ministers discretion over the minimum number of members a crofting community body must have.
261. Subsection (3) defines a “company limited by guarantee”, by reference to the [Companies Act 1985 \(c.6\)](#), as meaning a company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up.
262. Subsection (4) provides that a crofting community body cannot be recognised as such until Ministers are satisfied that its main purpose is consistent with furthering the achievement of sustainable development.
263. Subsection (5) sets out the criteria by reference to which the memorandum and articles of a crofting community body must refer to the crofting community to which it relates. It also allows Ministers to set down alternative criteria where they consider it appropriate to do so.
264. Subsection (7) states, for the avoidance of doubt, that the memorandum and articles of association of the crofting community body may prevent its assets from passing, on a winding up of the body, to any body which is not a charity. Subsection (8) defines “charity”, for the purposes of this section, as being a body which is entitled to describe itself as a Scottish charity.

Section 72: Provisions supplementary to section 71

265. This section specifies the constraints which apply to a crofting community body after it has acquired land under the legislation, the sanction for non-compliance and the basis on which that sanction will be applied.

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266. Subsection (1) prohibits any crofting community body, which has acquired land under Part 3 and continues to own that land, from amending its memorandum or articles of association except with the consent of Ministers.
267. Subsection (2) allows Ministers to acquire land from a crofting community body, by means of compulsory purchase, where the body has purchased land under Part 3 but no longer meets the criteria which would qualify it to exercise a crofting community right to buy that land.

Section 73: Application by crofting community body for consent to buy croft land

268. This section deals with the process of applying to exercise the crofting community right to buy.
269. Subsection (1) provides that only a crofting community body may exercise the right to buy, and subsection (2) further provides that the exercise of that right requires the consent of Ministers, and that such consent must be obtained by a written application.
270. Subsection (3) provides that there must be a separate right to buy application in respect of each holding of land (including holdings consisting solely of salmon fishings or mineral rights) or of sporting interests which the crofting community body is seeking to purchase and also provides that each application must be considered and determined by Ministers on its own merits. Subsection (4) provides that a holding of land or of sporting interests includes a holding in common or joint ownership.
271. Subsection (5) provides that an application must be made in the form, and contain such information as is, prescribed by regulations made by Ministers.
272. Subsection (6) specifies that at the same time as the crofting community body applies to Ministers, it must send a copy of the application form and associated material to the owner of the land or sporting interests. It also requires the crofting community body to send a copy of the application to the holder of any standard security over the land and invite that person to give notice, within 60 days, to the crofting community body and Ministers if any the creditor has taken any of the steps mentioned in subsection (7) to enforce its security in terms of the [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c.35\)](#).
273. In the event that such notice is given subsection (6)(a)(ii) requires the creditor holding the standard security to provide views on the application to Ministers in writing within that 60 day period.
274. Subsection (8) requires Ministers, on receipt of the application, to invite views from the parties specified in the subsection within 60 days and to send a copy of that invitation to the crofting community body.
275. Subsection (9) sets out an arrangement for seeking the consent of the owner to the sale of any eligible additional land specified in an application.
276. Subsection (10) requires Ministers to give public notice of receipt of the application and to invite views on the application within 60 days of publication of the notice.
277. Subsection (11) specifies where such notice shall be published.
278. Subsection (12) requires Ministers to send copies of any views they receive to the crofting community body, inviting the crofting community body to submit any responses to those views to Ministers within 60 days.
279. Subsection (13) requires that Ministers will take all views and responses received into account when considering an application.
280. Subsection (14) provides that Ministers may decline to consider an application due to such application being incomplete, not being in the proper form, that it includes land

or an interest in land which is not within the definitions contained in sections 68 and 70, or that it is an application which Ministers would be bound to reject because it is otherwise incompetent.

281. Subsection (15) sets constraints on the timing of a decision by Ministers on an application so as to ensure that there is sufficient time for references to the Land Court under sections 79 or 81 to be made and to ensure that a decision is not reached until matters referred to the Land Court have been determined by the Court.

Section 74: Criteria for consent by Ministers

282. This section provides that Ministers must satisfy themselves about specified matters before consenting to a crofting community right to buy.
283. Subsection (1)(g) prevents the crofting community right to buy being used to repurchase land which has previously been acquired through the use of that right to buy then re-sold.
284. Subsection (1)(h) prevents the exercise of the crofting community right to buy where the owner of the land is prevented from selling or is under an obligation to sell to someone other than the community body.
285. Subsection (1)(i) requires Ministers to be satisfied that a community body meets the requirements in section 71.
286. Subsection (1)(j) requires Ministers to satisfy themselves that the exercise of the right to buy would be compatible with furthering the achievement of sustainable development.
287. Subsection (1)(k) ensures that acquisitions of salmon fishings, mineral rights and sporting interests must be capable of contributing to the development of the community.
288. Subsection (1)(l) requires Ministers to ensure that the crofting community body and the crofting community to which it relates fully represent the crofting interests in the land which is the subject of the application.
289. Subsection (1)(m) requires Ministers to be satisfied that a ballot has taken place and the relevant crofting community have approved the crofting community right to buy application. This links to section 75.
290. Subsection (1)(n) requires Ministers to be satisfied that granting an application would be in the public interest before consenting to the application.
291. Subsection (2) expands the meaning of public interest for the purposes of the requirement in subsection (1)(n), and in particular provides that the interests of any community represented by a community body established for the purposes of Part 2 and any crofting community represented by a crofting community body must be taken into account.

Section 75: Ballot to indicate approval for purposes of section 74(1)(m)

292. This section sets out the arrangements for a ballot to establish that a crofting community right to buy application by a crofting community body has the support of the crofting community which that body represents.
293. Subsection (1) provides that a proposal by a crofting community body to exercise a crofting community right to buy will be deemed to have been approved by the relevant crofting community if, firstly, the vote takes place within the six month period immediately preceding the date of the right to buy application; secondly, that a majority of those voting in that ballot supported the proposal to make the application; and thirdly, that the majority of the croft tenants of the land to which the application applies who voted in that ballot also voted in favour of making the application. It also specifies

that only members of the crofting community which the crofting community body represents may vote in the ballot.

294. Subsection (2) requires that the conduct of the ballot and arrangements for ascertaining and publishing the results will be prescribed by regulations made by Ministers.
295. Subsection (3) provides that if a ballot is not conducted as prescribed by regulations made by Ministers the application to which it relates will fall.
296. Subsection (4) sets out the requirements for reporting the results of the ballot to Ministers.
297. Subsection (5) defines a croft tenant for the purposes of the ballot provisions.

Section 76: Right to buy same eligible land exercisable by only one crofting community body

298. This section deals with the situation where there is more than one crofting community body interested in buying the same land (e.g. where two or more crofting townships share a common grazing).
299. Subsection (1) provides that only one crofting community body may exercise the right to buy that land.
300. Subsection (2) states that where two or more such bodies seek to buy the same land Ministers will decide which one shall be allowed to proceed.
301. Subsection (3) constrains Ministers from making that decision before the processes specified in section 73(6) to (13) are completed in relation to each application.
302. Subsection (4) provides that once Ministers have decided which crofting community right to buy shall be allowed to proceed, any other crofting community body's right to buy, so far as it relates to that application, shall be extinguished. It also specifies who must be notified of their decision.

Section 77: Reference to Land Court of purchase of eligible additional land without owners consent

303. This section deals with cases in which the crofting community body applies to include eligible additional land in the transfer and the owner of the land does not agree that such land should be included.
304. In cases where the owner of eligible additional land does not consent to it being bought under Part 3, subsection (1) requires Ministers to refer the question as to whether the application should proceed in the absence of such consent to the Scottish Land Court. In the event of such a reference subsection (2) provides who may make representations to the Court.
305. Subsection (3) provides that the Scottish Land Court may determine that the land may be bought without the owner's consent but only if it is satisfied that the criteria specified in that subsection have been met. It further provides that the effect of the Scottish Land Court so determining will be the same as if Ministers had been satisfied, for the purposes of section 74(1)(c) that the landowner had consented to the sale of this land. The specified criteria are:-

that the acquisition must be essential to the development of the crofting community and that development must be compatible with furthering sustainable development;

that the purpose for which the purchase of that land is proposed cannot be achieved by other means available to the Scottish Land Court;

that the purchase will not be seriously prejudicial to the use and management of other land held by the land owner; and

that the total amount of additional land that can be purchased can be the greater of either an area of up to 5% of the total area of all land being purchased through the application and land already held by the crofting community body, which was previously acquired through the crofting community right to buy, or an area of up to 10 hectares.

306. Subsection (4) provides that where the Scottish Land Court approves the application it may require Ministers to impose conditions which will apply to the land to be transferred to the crofting community body.
307. Subsection (5) provides that if the purpose for which the crofting community body is seeking to acquire additional land can be met by imposing conditions on all or part of that land then the Scottish Land Court may make an order which approves the application without the additional land or part of it, providing that Ministers impose these title conditions on the eligible additional land or part of it when they consent to the application. The effect of this is that the crofting community body would not gain ownership of the additional land, but if the crofting community right to buy is affected there would be conditions imposed on land retained by the landowner.
308. Subsection (6) provides that the effect of the Scottish Land Court approving the application in accordance with subsection (5) will be the same as if Ministers had been satisfied that the landowner had consented to the inclusion of this land.
309. Subsection (7) provides clarification as to the form that title conditions might take.

Section 78: Modification of section 77(3)(a) to (e)

310. This section provides that Ministers may, by order, vary or add to the range of matters specified in section 77(3) on which the Scottish Land Court must be satisfied before it determines that an application to buy eligible additional land can proceed where the owner of the land has not consented to its sale. No such order may be made by Ministers unless a draft of it has been approved by a resolution of the Scottish Parliament.

Section 79: Additional land included at request of owner

311. This section deals with the situation where, in response to a crofting community right to buy application, a landowner requests that the crofting community body should also take other land which that landowner owns in addition to the land specified in the application.
312. Subsection (1) provides that, where such a request is made timeously, Ministers may, if they consider it is in the public interest, require that the crofting community body's application be modified to include such additional land.
313. Subsection (2) provides that Ministers may refer to the Scottish Land Court any matter relating to the question of whether additional land should be included in an application, and must do so if required either by the landowner who made the request or by the crofting community body.
314. Subsection (3) specifies who may make representations to the Court in relation to any matter referred to the Court by Ministers under subsection (2).
315. Subsection (4) requires the Scottish Land Court to report its findings in fact relating to the additional land to Ministers.
316. Subsection (5) requires Ministers to take account of the findings of the Scottish Land Court in reaching their decision as to whether to consent to an application.

Section 80: Consent conditions

317. This section provides that Ministers may apply conditions to their consent to an application to exercise the crofting community right to buy.

Section 81: Reference to Land Court of questions on applications

318. Subsection (1) allows Ministers and certain other persons with an interest in land to which a crofting community body's application relates to refer any question arising in connection with the application to the Scottish Land Court before Ministers decide the application.
319. Subsection (2) provides that in considering any question referred to it under this section the Scottish Land Court may have regard to representations made by the crofting community body, the owner and anyone else who in the opinion of the Scottish Land Court appears to have an interest.
320. Subsection (3) provides that following referral the Scottish Land Court will convey its findings to Ministers and may make an order setting out conditions which Ministers must impose if they consent to the crofting community right to buy application.
321. Subsection (4) gives the Scottish Land Court power to refuse to consider any reference made under the provisions of subsection (1) that it considers to be irrelevant.

Section 82: Notification of Ministers' decision on application

322. Subsection (1) provides that Ministers will give notice in writing of their decision to consent to or refuse an application to exercise the crofting community right to buy, and identifies the persons to whom such notice must be given. It specifies that the notice must be in the form prescribed by regulations made by Ministers, and requires Ministers to give reasons for their decision.
323. Subsection (2) provides that regulations made under subsection (1) must require that the notice includes a full description of the land or sporting interests to which the consent relates and any title conditions imposed under section 80.
324. Subsection (3) specifies that the notice must contain information about the consequences of the decision and the rights of appeal against it and state the date on which the decision is effective.

Section 83: Leaseback to owner of sporting interests

325. This section allows for any sporting rights to be leased back to the person who owned the land prior to the exercise of the right to buy, at a nominal rental for a period of at least 20 years.
326. Subsection (1) specifies that the leaseback provisions apply where the owner of the land had sole use of the sport at the date of the right to buy application, the crofting community body has proposed a leaseback of the sport in their application, the owner has, within the specified 60 day time limit, notified Ministers, in writing, that he or she wishes to lease the sporting interest in the land, there has been no copy of an agreement between the parties on the terms of a leaseback sent to Ministers and Ministers have consented to the application.
327. Subsection (2) requires that where subsection (1) applies Ministers must within 7 days ask the Scottish Land Court to determine appropriate terms and conditions for a leaseback of sport, and subsection (3) requires the Court to determine these.
328. Subsection (4) sets out the mandatory terms and conditions which must be included, and provides that these will not prevent the lease from being recorded or registered in accordance with the provisions of the [Registration of Leases \(Scotland\) Act 1857](#)

(c.26). It also provides that the lessee under such a lease (initially the former owner of the land) will be entitled to assign his or her interest in that lease.

329. Subsection (5) provides that the crofting community body must grant a lease immediately following completion of the transfer of the land in accordance with the terms and conditions specified by the Scottish Land Court.
330. Subsection (6) provides that if the crofting community body does not proceed as required by subsection (5) the Scottish Land Court may authorise its principal clerk to grant the lease and that will have the same effect as if the lease were granted by the crofting community body.

Section 84: Effect on other rights of Ministers' decision on right to buy

331. Subsection (1) provides that the crofting community right to buy has an effect on pre-existing rights of pre-emption, redemption or reversion or any option to purchase. It provides that these rights shall be suspended if Ministers approve a right to buy and revived when the transfer under the crofting community right to buy has been completed. It also provides that if the transfer is not completed, either because the crofting community body decides not to proceed to buy the land or it withdraws its confirmation of its intention to proceed, then the suspension of rights is lifted and these rights are revived.
332. Subsection (2) identifies statutory rights which are suspended and revived in the same way as the rights described in subsection (1).
333. Subsection (3) provides that nothing in Part 3 prejudices the position of creditors seeking to prevent the disposal of heritable property by a debtor by means of inhibition, action of adjudication or any other diligence.

Section 85: Confirmation of intention to proceed with purchase and withdrawal

334. Subsection (1) provides that a crofting community body may exercise its right to buy only if, within 21 days of the date of notification of the assessed value of the property covered by the application, it sends notice confirming its intention to proceed to buy the land to Ministers and the owner.
335. Subsection (2) provides that by notice in writing to Ministers the crofting community body may withdraw its right to buy application or its confirmation of its intention to proceed.
336. Subsection (3) specifies the action to be taken by Ministers on receipt of such notices.

Section 86: Completion of purchase

337. This section deals with conveyancing practicalities relevant to the transfer of land following Ministers giving consent to a crofting community right to buy application.
338. Subsection (1) provides that the crofting community body will be responsible for preparing the documents necessary to effect the conveyance of the land and for ensuring that the subjects to be conveyed are the same as those specified in the consent given by Ministers. It places an obligation on the crofting community body to ensure that in preparing the documents that they take account of all conditions imposed by Ministers.
339. Subsection (2) provides that where the crofting community body cannot comply with its duty regarding the property to be conveyed due to the fact that part of the land or interests in land covered by the consent to the crofting community right to buy is not owned by the person named as owner in the application, then it shall refer this matter to Ministers.

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- 340. Subsection (3) provides that where such a reference is made then Ministers may direct that the right to buy may be exercised as if that part of the land or interest had never been included in the application or they may direct that the right to buy is extinguished.
- 341. Subsection (4) requires the owner of the land or interest subject to the crofting community right to buy to make title deeds available to and transfer title to the crofting community body.
- 342. Subsection (5) provides that if the owner refuses or fails to make these deeds available, or if they cannot be found, the crofting community body can apply to the Scottish Land Court for an order requiring the production of these documents.
- 343. Subsection (6) provides that the crofting community body may apply to the Scottish Land Court to authorise its principal clerk to effect the transfer of title where the owner refuses, or for other reasons fails, to do so and where the principal clerk to the Court does so the effect will be the same as if it were done by the owner.

Section 87: Completion of transfer

- 344. Subsection (1) provides that the consideration payable for the land or interest over which the crofting community right to buy is exercised shall be the value of that land or interest as assessed under section 85 by the valuer appointed by Ministers.
- 345. Subsection (2) provides that this consideration should be paid not later than 6 months after the date on which Ministers consented to the right to buy application.
- 346. Subsection (3) specifies circumstances where either this payment deadline will not apply or where an alternative deadline will apply. In particular it allows the land owner and the crofting community body to agree an alternative payment date and provides for deferral of payment when the valuation has not been completed or has been subject to an appeal.
- 347. Subsection (4) specifies that where the owner is not able to grant a good and marketable title to the crofting community body by the date for payment, then payment shall be made to and held by the Scottish Land Court pending either completion of the conveyance or notification to the Court by the crofting community body that it has decided not to complete the transaction.
- 348. Subsection (5) specifies that if the consideration is not paid by the crofting community body by the due date the right to buy application will be deemed to have been withdrawn by the crofting community body. This creates a liability to pay compensation under section 89.
- 349. Subsection (6) provides that when the crofting community body records or registers its title the land acquired shall be discharged of any heritable security.
- 350. Subsection (7) provides that a security that related to the land acquired through the crofting community right to buy and to other land shall continue to apply to that other land.
- 351. Where land is discharged of a heritable security on purchase by a crofting community body subsection (8) requires that the crofting community body must pay the creditors under that heritable security whatever sums are due to them.
- 352. Subsection (9) provides that the crofting community body may deduct any sums paid to a heritable creditor under the provisions of subsection (8) from the amount that the body is due to pay the owner for the land.

Section 88: Assessment of value of croft land etc.

- 353. Subsection (1) requires that Ministers, where they have consented to a crofting community right buy application, must appoint a valuer to assess the value of that land

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or an interest in land within 7 days of that consent except where the circumstances set out in subsection (2) arise, namely a reference to the Land Court under section 83(2) (leaseback to owner of sporting interests).

354. Subsection (2) specifies that where the Land Court has to settle the terms of a leaseback a valuer should be appointed within 7 days of the date on which the terms of the leaseback have been determined by the Court.
355. Subsection (4) makes clear that in arriving at his/her valuation the valuer is acting for neither the crofting community body nor the landowner and is to act as an expert and not as an arbiter.
356. Subsection (5) specifies that the value to be ascertained is the market value at the date Ministers consented to the application to exercise the right to buy.
357. Subsection (6) defines market value as the sum of the open market value if the sale were between a willing seller and willing buyer, compensation for any depreciation in value of other land and interests belonging to the seller as a result of the forced sale and compensation for any disturbance to the seller resulting from the forced sale.
358. Subsection (7) specifies that in arriving at the open market value for the purposes of subsection (6)(a) account should be taken of the possibility of a potential purchaser with a special interest in the property (other than the crofting community body). It also specifies that no account shall be taken in that assessment of the fact that no time was allowed for marketing the property or of depreciation of other land or disturbance (since compensation for these latter two items will be added to the open market value by virtue of subsection (6)(b)).
359. Subsection (8) states that Ministers shall pay for the valuation under this section.
360. Subsection (9) requires the valuer to ask both the owner and the crofting community body for their views in writing on the value of land or interests and to take these representations into account in arriving at his or her valuation.
361. Subsection (10) specifies that where the crofting community body and the owner have agreed the valuation they shall notify the valuer in writing of that valuation.
362. Subsection (11) provides for discounting the valuation on account of the value of a leaseback of the sporting interest to the owner.
363. Subsections (12) and (13) require the appointed valuer to notify Ministers, the landowner and the crofting community body of his or her valuation. This must be done within 6 weeks of being appointed or within a longer period set by Ministers.
364. Subsection (14) confirms that the validity of the transfer is not affected by a failure by the valuer to comply with the time limit.

Section 89: Compensation

365. This section provides for payment of compensation to anyone who has incurred losses or expenses as a result of an application to exercise the crofting community right to buy. It provides that the compensation will be payable by the crofting community body except where Ministers have refused the application, in which case the compensation will be paid by Ministers.
366. Subsection (1) specifies the circumstances in which eligibility for compensation which can be recovered from the crofting community body will arise.
367. Subsection (2) provides that the crofting community body will not be liable to pay compensation when a crofting community right to buy application is made but is not approved by Ministers.

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- 368. Subsection (3) specifies that in the circumstances covered by subsection (2) compensation for certain losses and expenses can be recovered from Ministers.
- 369. Subsection (4) provides that Ministers must make an order governing how compensation is to be claimed..
- 370. Subsection (5) provides that if the parties cannot agree whether compensation is payable or the amount of such compensation within the timescale specified in the order, then either party may refer the matter to the Scottish Land Court.

Section 90: Grants towards crofting community bodies' liabilities to pay compensation

- 371. This section provides that Ministers may, in certain limited circumstances, pay a grant to a crofting community body to assist it in meeting the compensation it has to pay in connection with its exercise of the crofting community right to buy.
- 372. Subsection (2) specifies the circumstances in which payment of such a grant would be permitted and subsection (3) makes it clear that Ministers are not bound to pay grant even when all the circumstances specified arise.
- 373. Subsection (4) provides that payment of grant may be subject to conditions including conditions relating to repayment in the event of breach.
- 374. Subsection (5) provides that grant may be paid only if the crofting community body applies for it and subsection (6) provides that the form of the application and the application procedure will be specified by Ministers in regulations.
- 375. Subsection (7) specifies that Ministers must issue their decision on a grant application in writing and, in the case of refusal, specify the reasons for the refusal.
- 376. Subsection (8) provides that the decision by Ministers is final.

Section 91: Appeals

- 377. Subsections (1) and (2) provide that the landowner, any person who is a member of the crofting community, any person who has a legally enforceable right relating to the land or interests to which an application relates and anyone invited to give views on an application to exercise the crofting community right to buy in relation to that land or those interests may appeal against the Ministers' decision to consent to the application, by means of a summary application to the Sheriff.
- 378. Subsection (3) specifies that the crofting community body may by summary application appeal the refusal of Minister to consent to an application. However, subsection (4) makes it clear that this right does not extend to a decision by Ministers under section 73 upon which of two or more applications to buy the same land they should consent to.
- 379. Subsection (5) restricts appeals under subsections (1) and (3) to those on a point of law.
- 380. Subsections (6), (7) and (8) indicate which sheriff has jurisdiction to hear appeals, how the sheriff must dispose of these and that the sheriff's decision is final.
- 381. Subsection (9) provides that where the effect of the order by the sheriff is the same as granting the application the order may be made subject to any condition which Ministers could have imposed, and subsection (10) ensures that such an order shall be consistent with any decision or findings by the Scottish Land Court either in respect of additional land or in respect of a question on an application.

Section 92: Appeals to Land Court: valuation

- 382. Subsection (1) provides that the owner of land or of sporting interests over which the crofting community right to buy is being exercised and the crofting community body

which is exercising that right to buy may appeal to the Scottish Land Court against the valuation of that land or those interests.

- 383. Subsection (2) requires such an appeal to state the grounds of appeal and be lodged within 21 days of notification of the valuation.
- 384. Subsection (3) provides that the Scottish Land Court may reassess the value of the land or interests.
- 385. Subsection (4) provides that the valuer may be a witness in the appeal proceedings.
- 386. Subsection (5) requires the Scottish Land Court to give its decision on the appeal, in writing with reasons, within 4 weeks of hearing the appeal.
- 387. Subsection (7) provides that Ministers are not competent parties to any appeal by reason only that they appointed the valuer.

Section 93: Agreement as to matters referred or appealed

- 388. This provision allows the parties to a crofting community right to buy to reach an out of court settlement on any issues relating to a crofting community right to buy which are the subject of an appeal.

Section 94: Register of Crofting Community Rights to Buy

- 389. Subsection (1) provides that the Crofters Commission will be responsible for the creation and maintenance of a Register of Crofting Community Rights to Buy.
- 390. Subsection (2) specifies information and documents that must be kept in the Register and provides that these must be kept available for public inspection and in an accessible form.
- 391. Subsection (3) gives Ministers power to make orders which modify what may be held on the Register. Section 95(5) provides that no such order may be made unless a draft of it has been approved by a resolution of the Scottish Parliament.
- 392. Subsection (4) specifies who must send copies of documents and information that are to be held on the Register to the Crofters Commission and when that must be done.
- 393. Subsection (5) provides that the Crofters Commission must ensure free public access to the Register with provision of facilities for copying entries on payment of a charge and provision for obtaining certified copies of entries on payment of a charge.
- 394. Subsection (6) specifies that certified copies may be used as evidence of the original.

Section 95: Avoidance of disposal other than to crofting community body

- 395. This section provides that after the date on which Ministers approve a right to buy application the owner of the land or sporting interests in respect of which the right to buy has been approved may not thereafter sell it to anyone other than the crofting community body. It further provides that the prohibition on sale will end if the body decides not to exercise the right to buy or withdraws the crofting community right to buy application.

Section 96: Limitation on affect of this Part

- 396. This section ensures that the rights of crofters under the [Crofters \(Scotland\) Act 1993 \(c.44\)](#) are not affected by the provisions relating to the crofting community right to buy. It also provides that a crofting community body which buys croft land through the exercise of the crofting community right to buy will be a landlord for the purposes of that Act and makes it clear that a crofting community body which is created for the

purpose of using the crofting community right to buy conferred by Part 3 to buy land or sporting interests is not prevented from acquiring any other property by other means.

Section 97: Scottish Land Court: jurisdiction

397. This section empowers the Scottish Land Court to conduct hearings into and determine matters of fact and law relating to the exercise of the crofting community right to buy.
398. Subsection (1) indicates that the powers of the Scottish Land Court are limited in two respects. Firstly because decisions under section 79 fall to be made by Ministers, and secondly because Section 91 gives the sheriff jurisdiction on hearing and determining appeals on points of law against decisions by Ministers to consent or refuse to consent to applications.
399. Subsection (2) provides for consequential amendment of section 1(7) of the [Scottish Land Court Act 1993 \(c.45\)](#). This allows the Court, if it thinks fit, and requires it, on the request of any party, to state a special case on any question of law arising in any proceedings pending before it under Part 3 for the opinion of the Inner House of the Court of Session.
400. The decision of the Scottish Land Court on the matters over which it exercises jurisdiction is final unless a referral is made to the Inner House of the Court of Session under the 1993 Act (as amended by subsection (2)).
401. Subsection (3) provides that there is no appeal to the full Scottish Land Court in the event that a matter referred to the Court under Part 3 is determined by a single member of the Court acting under delegation from the full Court.