

LAND REFORM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Right to Buy Land to Further Sustainable Development

Compensation

Section 67 – Compensation

336. *Section 67* provides for payment of compensation in connection with an application to exercise the Part 5 right to buy. It provides that the compensation will be payable by the Part 5 community body or third party purchaser, except where Ministers have refused the application, in which case the compensation due to the owner of land, or tenant, will be paid by Ministers.
337. Subsection (1) specifies the circumstances in which eligibility for compensation will arise in circumstances where there is no third party purchaser and provides that this compensation will be payable by the Part 5 community body.
338. Subsection (2) specifies the circumstances in which eligibility for compensation will arise in circumstances where there is a third party purchaser and provides that this compensation will be payable by the third party purchaser or, in one circumstance, the Part 5 community body.
339. Subsection (3) provides that the Part 5 community body, third party purchaser where relevant, will not be liable to pay compensation when a Part 5 right to buy application is made but is not approved by Ministers.
340. Subsection (4) provides that where an application has been refused, an owner of land, or where relevant, a tenant, is entitled to recover certain losses or expenses from the Scottish Ministers.
341. Subsection (5) provides that the Scottish Ministers may set out in regulations further detail on the amounts payable in respect of loss or expense, who is liable to pay those amounts, and how any compensation is to be claimed.
342. Subsection (6) provides that, where the amount of compensation has not been settled by the parties within the timescale set out in regulations, either party can refer the question to the Lands Tribunal.
343. Subsection (7) provides that where parties refer compensation to the Lands Tribunal the party making the referral must notify the Scottish Ministers of the reference and its date (this doesn't apply where it is the Scottish Ministers who make the referral).
344. Subsection (8) requires the Lands Tribunal to send a copy of its findings on a question referred to it under subsection (6) to the Scottish Ministers.
345. Subsection (9) provides that failure to comply with subsections (7) or (8) has no effect on the right to buy or the validity of the reference under subsection (6).

Section 68 – Grants towards liabilities to pay compensation

346. Subsection (1) provides that the Scottish Ministers may, in certain circumstances, pay a grant to a Part 5 community body or, where relevant, a third party purchaser to assist it in meeting the compensation it has to pay in connection with its exercise of a right to buy.
347. Subsection (2) specifies the circumstances in which payment of such a grant may be permitted and subsection (3) makes it clear that Ministers are not bound to pay a grant even if all the circumstances specified arise.
348. Subsection (4) provides that payment of a grant may be subject to conditions including conditions relating to repayment in the event of a breach.
349. Subsection (5) provides that a grant may be paid only if the Part 5 community body, or third party purchaser where relevant, applies for it, and subsection (6) provides that Ministers may set out in regulations the form of the application and the application procedure.
350. Subsection (7) provides that Ministers must issue their decision on an application for a grant in writing and, where that decision is to refuse to pay a grant, include the reasons for that refusal. Subsection (8) provides that Ministers' decision on whether to pay a grant or not is final.