



# Land Reform (Scotland) Act 2016

## 2016 asp 18

### PART 5

#### RIGHT TO BUY LAND TO FURTHER SUSTAINABLE DEVELOPMENT

##### *Key terms*

#### **45 Meaning of “land”**

- (1) In this Part “land”—
  - (a) includes—
    - (i) bridges and other structures built on or over land,
    - (ii) inland waters,
    - (iii) canals,
    - (iv) the foreshore, being the land between the high and low water marks of ordinary spring tides, and
    - (v) salmon fishings in inland waters or mineral rights which are owned separately from the land in respect of which they are exigible,
  - (b) does not include land consisting of any other separate tenement which is owned separately from the land in respect of which it is exigible.
- (2) In paragraph (a)(v) of subsection (1) “mineral rights” does not include rights to oil, coal, gas, gold or silver.
- (3) In this Part “inland waters” has the meaning given by section 69(1) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003.

#### **46 Eligible land**

- (1) The land which may be bought under this Part (“eligible land”) is any land other than excluded land.
- (2) In subsection (1) “excluded land” means—
  - (a) land on which there is a building or other structure which is an individual’s home, unless the building or structure is occupied by an individual under a tenancy,

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- (b) such land pertaining to land of the type mentioned in paragraph (a) as the Scottish Ministers may by regulations specify,
  - (c) croft land within the meaning of section 68(2) of the Land Reform (Scotland) Act 2003,
  - (d) land which is owned or occupied by the Crown by virtue of its having vested as *bona vacantia* in the Crown, or its having fallen to the Crown as *ultimus haeres*,
  - (e) land of such other descriptions or classes as the Scottish Ministers may by regulations specify.
- (3) The Scottish Ministers may by regulations make provision about—
- (a) the buildings and structures which are, or are to be treated as, a home for the purposes of subsection (2)(a),
  - (b) the types of occupation and possession of land that are, or are to be treated as, a tenancy for the purposes of subsection (2)(a).

#### **47 Eligible land: salmon fishings and mineral rights**

- (1) A Part 5 community body (as defined in section 49) may apply, under section 54, to buy eligible land which consists of salmon fishings or mineral rights only—
- (a) where—
    - (i) it is simultaneously applying, or
    - (ii) it has made an application in respect of which the Scottish Ministers have not made a decision,
 to buy the land to which such fishings or rights relate, or
  - (b) during the relevant period.
- (2) Such an application may be made during the relevant period only where the Part 5 community body or, as the case may be, the third party purchaser (as defined in section 54(1)(b))—
- (a) has provided confirmation under section 62(1) or, as the case may be, (2) of its intention to proceed to buy the land to which the fishings or rights relate, or
  - (b) has bought and retained that related land in accordance with the provisions of this Part.
- (3) In this section “relevant period” means the period beginning with the date on which the Scottish Ministers consented to the application under section 54 to buy the land to which the fishings or rights relate and ending—
- (a) where the Part 5 community body or, as the case may be, the third party purchaser does not proceed to exercise its right to buy that related land, on the date—
    - (i) on which it withdraws, under section 62(3)(b) or, as the case may be, (4)(b), its confirmation so to proceed, or
    - (ii) of its failure otherwise to complete the purchase, or
  - (b) where the Part 5 community body or, as the case may be, the third party purchaser has bought and retained that related land—
    - (i) in relation to salmon fishings, 1 year, or
    - (ii) in relation to mineral rights, 5 years,
 after the date on which the Part 5 community body or the third party purchaser bought that land.

#### **48 Eligible land: tenant's interests**

- (1) This section applies where a tenancy which is not—
  - (a) a croft tenancy,
  - (b) the tenancy of a dwelling-house, or
  - (c) such other kind of tenancy as the Scottish Ministers may by regulations specify,has been created over land at least part of which is eligible land.
- (2) In this section—

“principal subjects” means eligible land any part of which is the tenanted land,  
“tenanted land” means the land over which the tenancy has been created.
- (3) Where this section applies, a Part 5 community body may apply, under section 54, to buy the interest mentioned in subsection (4)—
  - (a) where—
    - (i) it is simultaneously applying, or
    - (ii) it has made an application in respect of which the Scottish Ministers have not made a decision,to buy the principal subjects, or
  - (b) if the conditions set out in subsection (5) are met, during the relevant period.
- (4) The interest is the interest of the tenant over so much of the tenanted land as is comprised within the principal subjects.
- (5) The conditions are that the Part 5 community body or, as the case may be, the third party purchaser—
  - (a) has provided confirmation under section 62(1) or, as the case may be, (2) of its intention to proceed to buy the principal subjects, or
  - (b) has bought and retained those subjects in accordance with the provisions of this Part.
- (6) In this section “relevant period” means the period beginning with the date on which the Scottish Ministers consented to the application under section 54 to buy the principal subjects and ending—
  - (a) where the Part 5 community body or, as the case may be, the third party purchaser does not proceed to exercise its right to buy those subjects, on the date—
    - (i) on which it withdraws, under section 62(3)(b) or, as the case may be, (4)(b), its confirmation so to proceed, or
    - (ii) of its failure otherwise to complete the purchase, or
  - (b) where the Part 5 community body or, as the case may be, the third party purchaser has bought and retained those subjects, 5 years after the date on which the Part 5 community body or the third party purchaser bought those subjects.
- (7) In this Part “tenant” includes sub-tenant.

#### **49 Part 5 community bodies**

- (1) A Part 5 community body is, subject to subsection (7)—

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- (a) where a body applies under section 54(1)(a) to exercise the right to buy itself, a body falling within subsection (2), (3) or (4),
  - (b) where a body nominates a third party purchaser to exercise the right to buy under section 54(1)(b), a body falling within subsection (5),
  - (c) a body of such other description as the Scottish Ministers may by regulations specify.
- (2) A body falls within this subsection if it is a company limited by guarantee the articles of association of which include the following—
- (a) a definition of the community to which the company relates,
  - (b) provision enabling the company to exercise the right to buy land under this Part,
  - (c) provision that the company must have not fewer than 10 members,
  - (d) provision that at least three quarters of the members of the company are members of the community,
  - (e) provision whereby the members of the company who consist of members of the community have control of the company,
  - (f) provision ensuring proper arrangements for the financial management of the company,
  - (g) provision that any surplus funds or assets of the company are to be applied for the benefit of the community, and
  - (h) provision that, on the winding up of the company and after satisfaction of its liabilities, its property (including any land acquired by it under this Part) passes—
    - (i) to such other community body as may be approved by the Scottish Ministers, or
    - (ii) if no other community body is so approved, to the Scottish Ministers or to such charity as the Scottish Ministers may direct.
- (3) A body falls within this subsection if it is a Scottish charitable incorporated organisation (a “SCIO”) the constitution of which includes the following—
- (a) a definition of the community to which the SCIO relates,
  - (b) provision enabling the SCIO to exercise the right to buy land under this Part,
  - (c) provision that the SCIO must have not fewer than 10 members,
  - (d) provision that at least three quarters of the members of the SCIO are members of the community,
  - (e) provision under which the members of the SCIO who consist of members of the community have control of the SCIO,
  - (f) provision ensuring proper arrangements for the financial management of the SCIO,
  - (g) provision that, on the request of any person for a copy of the minutes of a meeting of the SCIO, the SCIO must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
  - (h) provision that, where a request of the type mentioned in paragraph (g) is made, the SCIO—
    - (i) may withhold information contained in the minutes, and
    - (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and

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- (i) provision that any surplus funds or assets of the SCIO are to be applied for the benefit of the community.
- (4) A body falls within this subsection if it is a community benefit society the registered rules of which include the following—
- (a) a definition of the community to which the society relates,
  - (b) provision enabling the society to exercise the right to buy land under this Part,
  - (c) provision that the society must have not fewer than 10 members,
  - (d) provision that at least three quarters of the members of the society are members of the community,
  - (e) provision under which the members of the society who consist of members of the community have control of the society,
  - (f) provision ensuring proper arrangements for the financial management of the society,
  - (g) provision that, on the request of any person for a copy of the minutes of a meeting of the society, the society must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
  - (h) provision that, where a request of the type mentioned in paragraph (g) is made, the society—
    - (i) may withhold information contained in the minutes, and
    - (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and
  - (i) provision that any surplus funds or assets of the society are to be applied for the benefit of the community.
- (5) A body falls within this subsection if it is a body corporate having a written constitution that includes the following—
- (a) a definition of the community to which the body relates,
  - (b) provision that the majority of the members of the body are to be members of that community,
  - (c) provision that the members of the body who consist of members of that community have control of the body,
  - (d) provision that membership of the body is open to any member of that community,
  - (e) a statement of the body's aims and purposes, including the promotion of a benefit for that community, and
  - (f) provision that any surplus funds are to be applied for the benefit of that community.
- (6) The Scottish Ministers may, if they think it in the public interest to do so, disapply the requirement specified in subsection (2)(c), (3)(c) or (4)(c) in relation to any body they may specify.
- (7) A body is not a Part 5 community body unless the Scottish Ministers have given it written confirmation that they are satisfied that the main purpose of the body is consistent with furthering the achievement of sustainable development.
- (8) The Scottish Ministers may by regulations modify subsections (2), (3), (4), (5) and (6).
- (9) A community—

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- (a) is defined for the purposes of subsection (2), (3), (4) and (5) by reference to a postcode unit or postcode units or a type of area as the Scottish Ministers may by regulations specify (or both such unit and type of area), and
  - (b) comprises the persons from time to time—
    - (i) resident in that postcode unit or in one of those postcode units or in that specified type of area, and
    - (ii) entitled to vote, at a local government election, in a polling district which includes that postcode unit or those postcode units or that specified type of area (or part of it or them).
- (10) The articles of association of a company which is a Part 5 community body may, despite the generality of paragraph (h) of subsection (2), provide that its property may, in the circumstances mentioned in that paragraph, pass to another person only if that person is a charity.
- (11) In this section—
- “charity” means a body entered in the Scottish Charity Register,
  - “community benefit society” means a registered society (within the meaning of section 1 of the Co-operative and Community Benefit Societies Act 2014) registered as a community benefit society under section 2 of that Act,
  - “company limited by guarantee” has the meaning given by section 3(3) of the Companies Act 2006,
  - “postcode unit” means an area in relation to which a single postcode is used to facilitate the identification of postal service delivery points within the area,
  - “registered rules” has the meaning given by section 149 of the Co-operative and Community Benefit Societies Act 2014 (as that meaning applies in relation to community benefit societies),
  - “Scottish charitable incorporated organisation” has the meaning given by section 49 of the Charities and Trustee Investment (Scotland) Act 2005.

## **50 Provisions supplementary to section 49**

- (1) A Part 5 community body—
- (a) which has bought land under this Part, any part of which remains in its ownership, and
  - (b) which modifies its memorandum, articles of association, constitution or registered rules (as defined in section 49(11)),
- must, as soon as possible after such modification, notify the Scottish Ministers in writing of the modification.
- (2) If the Scottish Ministers are satisfied that a Part 5 community body which has, under this Part, bought land would, had it not so bought that land, no longer be entitled to do so, they may acquire the land compulsorily.
- (3) Subsection (2) does not apply if the Part 5 community body would no longer be entitled to buy the land because the land is not eligible for the purposes of this Part.
- (4) Where the power conferred by subsection (2) is (or is to be) exercised in relation to land, the Scottish Ministers may by regulations make provision relating to, or to matters connected with, the acquisition of the land.
- (5) Regulations under subsection (4) may—

- (a) apply, modify or exclude any enactment which relates to any matter as to which regulations could be made under that subsection,
- (b) make such modifications of enactments as appear to the Scottish Ministers to be necessary or expedient in consequence of any provision of the regulations or otherwise in connection with the regulations.

## **51 Interpretation of Part**

- (1) In this Part “Lands Tribunal” means the Lands Tribunal for Scotland.
- (2) Any reference in this Part to a creditor in a standard security with a right to sell land is a reference to a creditor who has such a right under—
  - (a) section 20(2) or 23(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970, or
  - (b) a warrant granted under section 24(1) of that Act.
- (3) In calculating for the purposes of this Part any period of time within which an act requires to be or may be done, no account is to be taken of any public or local holidays in the place where the act is to be done.
- (4) Subsection (3) does not apply to a period of time specified in section 64(2), 69(7) or 70(3).

### *Register of Applications by Community Bodies to Buy Land*

## **52 Register of Applications by Community Bodies to Buy Land**

- (1) The Keeper must set up and keep a register, to be known as the Register of Applications by Community Bodies to Buy Land (the “New Register”).
- (2) The New Register must be set up and kept so as to contain, in a manner and form convenient for public inspection, the following information and documents relating to each application to exercise the right to buy under this Part registered in it—
  - (a) where the Part 5 community body which applied under section 54 is constituted by a company limited by guarantee, the name and address of the registered office of the company,
  - (b) where the Part 5 community body which applied under section 54 is constituted by a Scottish charitable incorporated organisation (within the meaning given by section 49(11)), the name and address of the principal office of the Scottish charitable incorporated organisation,
  - (c) where the Part 5 community body which applied under section 54 is constituted by a community benefit society (within the meaning given by section 49(11))—
    - (i) the name of the society, and
    - (ii) the address of the registered office of the society,
  - (d) where the Part 5 community body which applied under section 54 is constituted by a body corporate having a written constitution, the name and address of the body corporate,
  - (e) a copy of the application to exercise the right to buy under this Part,
  - (f) a copy of any notification given under section 58(4)(b),
  - (g) a copy of any notice given under section 60(1),

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- (h) a copy of any notice given under section 61(2)(b),
  - (i) a copy of any notice under section 62(1) or (2),
  - (j) a copy of any notice under section 62(3)(a) or (b),
  - (k) a copy of any notice under section 62(4)(a) or (b),
  - (l) such other information as the Scottish Ministers consider appropriate.
- (3) Subject to subsection (4), any person who, under this Part, provides a document or other information, or makes a decision, which or a copy of which is to be registered in the New Register must, as soon as reasonably practicable after providing the document or other information or, as the case may be, making the decision, give it or a copy of it to the Keeper for the purpose of allowing it to be so registered.
- (4) If the Part 5 community body registering an application requires that any such information or document relating to that application and falling within subsection (5) as is specified in the requirement be withheld from public inspection, that information or document is to be kept by or on behalf of the Scottish Ministers separately from and not entered in the New Register.
- (5) Information or a document falls within this subsection if it relates to arrangements for the raising or expenditure of money to enable the land to which the application relates to be put to a particular use.
- (6) Nothing in subsection (4) or (5) requires an applicant Part 5 community body or a third party purchaser, or empowers the Scottish Ministers to require an applicant Part 5 community body or a third party purchaser, to submit to the Scottish Ministers any information or document within subsection (5).
- (7) The Scottish Ministers may by regulations modify—
- (a) paragraphs (a) to (k) of subsection (2),
  - (b) subsection (4),
  - (c) subsection (5).
- (8) Subsection (9) applies where—
- (a) a Part 5 community body changes its name,
  - (b) a Part 5 community body which is constituted by a company limited by guarantee or by a community benefit society changes the address of its registered office,
  - (c) a Part 5 community body which is constituted by a Scottish charitable incorporated organisation changes the address of its principal office, or
  - (d) a Part 5 community body which is constituted by a body corporate having a written constitution changes its address.
- (9) The Part 5 community body must, as soon as reasonably practicable after the change is made, notify the Keeper of the change.
- (10) The Keeper must ensure—
- (a) that the New Register is, at all reasonable times, available for public inspection free of charge,
  - (b) that members of the public are given facilities for getting copies of entries in the New Register on payment of such charges as the Scottish Ministers may by regulations specify, and
  - (c) that any person requesting it is, on payment of such a charge, supplied with an extract entry certified to be a true copy of the original.

- (11) An extract so certified is sufficient evidence of the original.
- (12) In this Part “the Keeper” means—
  - (a) the Keeper of the Registers of Scotland, or
  - (b) such other person as the Scottish Ministers may appoint to carry out the Keeper’s functions under this Part.
- (13) Different persons may be so appointed for different purposes.

**53 Inclusion in New Register of applications for right to buy abandoned, neglected or detrimental land**

- (1) Section 97F of the Land Reform (Scotland) Act 2003 (as inserted by section 74 of the Community Empowerment (Scotland) Act 2015) is amended as follows.
- (2) For subsection (1) substitute—
  - “(1) The Keeper must keep the Register of Applications by Community Bodies to Buy Land (the “New Register”), established under section 52 of the Land Reform (Scotland) Act 2016, so that there is contained in it a part for registering information and documents relating to applications for the right to buy in accordance with section 97G.”.
- (3) In subsection (2), for “Part 3A Register” substitute “New Register”.
- (4) In subsection (3), for “Part 3A” substitute “New”.
- (5) In subsection (4), before “Register” insert “New”.
- (6) Subsections (10) and (11) are repealed.
- (7) The title of the section becomes “**Inclusion of applications for right to buy in Register of Applications by Community Bodies to Buy Land**”.

*Applications for consent*

**54 Right to buy: application for consent**

- (1) The right to buy under this Part may be exercised only by—
  - (a) a Part 5 community body, or
  - (b) where a Part 5 community body nominates in its application another person to exercise the right to buy, that person (a “third party purchaser”).
- (2) That right may be so exercised only with the consent of the Scottish Ministers given on the written application of the Part 5 community body.
- (3) That right may be exercised in relation to more than one holding of land or more than one tenancy but in order so to exercise the right an application must be made in respect of each such holding or tenancy and applications so made may be differently disposed of.
- (4) In subsection (3)—
  - (a) a “holding” of land is land in the ownership of one person or in common or joint ownership, and

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- (b) a “tenancy” is one where one person is entitled to the tenant’s interest or there is a common or joint entitlement to that interest.
- (5) Such an application—
- (a) must be made in such form as the Scottish Ministers may by regulations require,
  - (b) must specify—
    - (i) the owner of the land,
    - (ii) where the application is to buy a tenant’s interest, the tenant, and
    - (iii) any creditor in a standard security over the land or any part of it, and
  - (c) must include or be accompanied by such information as the Scottish Ministers may by regulations specify including information (provided, where appropriate, by or by reference to maps or drawings) about the matters mentioned in subsection (6).
- (6) The matters are—
- (a) the reasons the Part 5 community body considers that its proposals for the land satisfy the sustainable development conditions set out in section 56(2) (or, where the application is to buy a tenant’s interest, those conditions as modified by section 56(6)(a)),
  - (b) the location and boundaries of the land in respect of which the right to buy is sought to be exercised (including, as the case may be, the land to which any tenant’s interest relates),
  - (c) all rights and interests in the land known to the Part 5 community body,
  - (d) the proposed use, development and management of the land (including, as the case may be, the land to which any tenant’s interest relates).
- (7) A Part 5 community body applying under this section must, at the same time as it applies—
- (a) send a copy of its application and the accompanying information to the owner of the land to which the application relates,
  - (b) where its application is to buy a tenant’s interest, send a copy of the application and the accompanying information to the tenant,
  - (c) where the Part 5 community body nominates a third party purchaser, send a copy of the application and the accompanying information to the third party purchaser,
  - (d) where there is a standard security in relation to the land or any part of it, send a copy of the application and the accompanying information to the creditor who holds the standard security and invite the creditor—
    - (i) to notify the Part 5 community body and the Scottish Ministers, within 60 days of the sending of the invitation, if any of the circumstances set out in subsection (8) has arisen (or arises within 60 days of the sending of the invitation), and
    - (ii) if such notice is given, to provide the Scottish Ministers, within that time, with the creditor’s views in writing on the application.
- (8) Those circumstances are that—
- (a) a calling-up notice has been served by the creditor under section 19 of the Conveyancing and Feudal Reform (Scotland) Act 1970 in relation to the land which the Part 5 community body is seeking to exercise its right to buy or any part of the land and that notice has not been complied with,

- (b) a notice of default served by the creditor under section 21 of that Act in relation to the land or any part of the land has not been complied with and the person on whom the notice was served has not, within the period specified in section 22 of that Act, objected to the notice by way of application to the court,
- (c) where that person has so objected, the court has upheld or varied the notice of default,
- (d) the court has granted the creditor a warrant under section 24 of that Act in relation to the land or any part of the land.

## **55 Right to buy: application procedure**

- (1) On receipt of an application under section 54, the Scottish Ministers must—
  - (a) invite—
    - (i) the owner of the land,
    - (ii) where the application is to buy a tenant's interest, the tenant,
    - (iii) any creditor in a standard security over the land or any part of it,
    - (iv) where the application nominates a third party purchaser, the third party purchaser, and
    - (v) any other person whom the Scottish Ministers consider to have an interest in the application,to send them, so as to be received not later than 60 days after the sending of the invitation, views in writing on the application,
  - (b) take reasonable steps to invite the owners of all land contiguous to the land to which the application relates to send them, so as to be received not later than 60 days after the sending of the invitation, views in writing on the application, and
  - (c) send copies of invitations given under paragraphs (a) and (b) to the Part 5 community body.
- (2) An invitation given under subsection (1)(a)(i) or (ii) must also invite the owner or, as the case may be, the tenant to give the Scottish Ministers information about—
  - (a) the owner's or tenant's views on the likely impact on the owner or tenant of the proposals for the land or tenant's interest, including on the current use of the land or tenant's interest (and any intended use),
  - (b) whether the owner or tenant considers that the proposals for the land or tenant's interest satisfy the sustainable development conditions set out in section 56(2) and, if not, the owner or tenant's reasons,
  - (c) any rights or interests in the land of which the owner or tenant is aware that are not mentioned in the application, and
  - (d) any other matter that the owner or tenant considers is relevant to the application.
- (3) The Scottish Ministers must, as soon as reasonably practicable after receiving an application, give public notice of it and of the date by which, under subsection (1) (a), views are to be received by them and, in that notice, invite persons to send to the Scottish Ministers, so as to be received by them not later than 60 days after the publication of the notice, views in writing on the application.
- (4) That public notice is to be given by advertisement in such manner as the Scottish Ministers may by regulations specify.

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- (5) The Scottish Ministers must—
- (a) send copies of any views they receive under this section to the Part 5 community body, and
  - (b) invite it to send them, so as to be received by them not later than 60 days after the sending of that invitation, its responses to these views.
- (6) The Scottish Ministers must, when considering whether to consent to an application under section 54, have regard to all views on it and responses to the views which they have received in answer to invitations under this section.
- (7) The Scottish Ministers must decline to consider an application which—
- (a) does not comply with the requirements of or imposed under section 54,
  - (b) is otherwise incomplete, or
  - (c) otherwise indicates that it is one which the Scottish Ministers would be bound to reject,
- and the Scottish Ministers are not required to comply with subsections (1) to (6) in relation to such an application.
- (8) The Scottish Ministers must not reach a decision on an application before—
- (a) the date which is 60 days after the last date on which the Part 5 community body may provide the Scottish Ministers with a response to the invitation given under subsection (5), or
  - (b) if by that date the Lands Tribunal has not advised the Scottish Ministers of its finding on any question referred to it under section 71 in relation to the application, the date on which the Lands Tribunal provides the Scottish Ministers with that finding.
- (9) A Part 5 community body or, as the case may be, a third party purchaser may require the Scottish Ministers to treat as confidential any information or document relating to arrangements for the raising or expenditure of money to enable the land to be put to a particular use, being information or a document made available to the Scottish Ministers for the purposes of this section and section 54.

## **56 Right to buy: Ministers' decision on application**

- (1) The Scottish Ministers must not consent to an application to buy land under section 54 unless they are satisfied that—
- (a) the sustainable development conditions mentioned in subsection (2) are met, and
  - (b) the procedural requirements mentioned in subsection (3) have been complied with.
- (2) The sustainable development conditions are met if—
- (a) the transfer of land is likely to further the achievement of sustainable development in relation to the land,
  - (b) the transfer of land is in the public interest,
  - (c) the transfer of land—
    - (i) is likely to result in significant benefit to the relevant community (see subsection (11)) to which the application relates, and
    - (ii) is the only practicable, or the most practicable, way of achieving that significant benefit, and

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- (d) not granting consent to the transfer of land is likely to result in harm to that community.
- (3) The procedural requirements for an application to buy land have been complied with if—
- (a) before the period of 6 months ending with the day on which the application was made, the Part 5 community body has submitted a written request to the owner of the land to transfer the land to the community body or, as the case may be, to the third party purchaser named in the application and the owner has not responded or has not agreed to the request,
  - (b) the land to which the application relates is eligible land,
  - (c) the owner of the land is accurately identified in the application,
  - (d) any creditor in a standard security over the land or any part of it is accurately identified in the application,
  - (e) where the application nominates a third party purchaser, the third party purchaser—
    - (i) is accurately identified in the application, and
    - (ii) is shown to consent to the application,
  - (f) the owner is not—
    - (i) prevented from selling the land, or
    - (ii) subject to any enforceable personal obligation (other than an obligation arising by virtue of any right suspended by regulations under section 61(3)) to sell the land otherwise than to the Part 5 community body or, as the case may be, the third party purchaser,
  - (g) either—
    - (i) a significant number of the members of the relevant community to which the application relates have a connection with the land,
    - (ii) the land is sufficiently near to land with which those members of that community have a connection, or
    - (iii) the land is in or sufficiently near to the area comprising that community,
  - (h) the relevant community have approved the proposal to exercise the right to buy, and
  - (i) the Part 5 community body complies with the provisions of section 49.
- (4) In determining whether an application to buy land meets the sustainable development conditions mentioned in subsection (2), the Scottish Ministers may take into account the extent to which, in relation to the relevant community, regard has been had to guidance issued under section 44.
- (5) Where an application relates to land which consists of salmon fishings or mineral rights only, the Scottish Ministers must not consent to the application unless they are also satisfied that the application complies with the requirements of section 47.
- (6) Where an application is to buy a tenant's interest, the Scottish Ministers must not consent to the application unless they are satisfied that—
- (a) the sustainable development conditions mentioned in subsection (2) are met in relation to the transfer of the tenant's interest (reading references in that subsection to “the transfer of land” as “the transfer of the tenant's interest”), and

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- (b) the procedural requirements mentioned in subsection (7) have been complied with.
- (7) The procedural requirements for an application to buy a tenant’s interest have been complied with if—
- (a) before the period of 6 months ending with the day on which the application was made, the Part 5 community body has submitted a written request to the tenant to assign the tenant’s interest to the community body or, as the case may be, to the third party purchaser named in the application,
  - (b) the application complies with the requirements of section 48,
  - (c) the tenant whose interest the application relates to is accurately identified in the application,
  - (d) the owner of the land is accurately identified in the application,
  - (e) any creditor in a standard security over the land or any part of it is accurately identified in the application,
  - (f) where the application nominates a third party purchaser, the third party purchaser—
    - (i) is accurately identified in the application, and
    - (ii) is shown to consent to the application,
  - (g) either—
    - (i) a significant number of the members of the relevant community to which the application relates have a connection with the land to which the tenancy relates,
    - (ii) the land is sufficiently near to land with which those members of that community have a connection, or
    - (iii) the land is in or sufficiently near to the area comprising that community,
  - (h) the relevant community have approved the proposal to exercise the right to buy, and
  - (i) the Part 5 community body complies with the provisions of section 49.
- (8) In determining whether an application to buy a tenant’s interest meets the sustainable development conditions mentioned in subsection (2), the Scottish Ministers—
- (a) must take into account any related application under section 54 to buy the land to which the tenancy relates, and
  - (b) may take into account the extent to which, in relation to the relevant community, regard has been had to guidance issued under section 44.
- (9) The Scottish Ministers may by regulations make provision about—
- (a) the form and content of requests referred to in subsections (3)(a) and (7)(a),
  - (b) the form and content of responses to requests referred to in subsection (3)(a),
  - (c) the circumstances in which owners of land are to be taken not to have responded or not to have agreed to requests referred to in subsection (3)(a).
- (10) In determining for the purposes of subsection (2)(b) whether a transfer of land or tenant’s interest is in the public interest, the Scottish Ministers must—
- (a) take into account, in particular, any information given under section 55(2)(a),
  - (b) consider the likely effect of granting (or not granting) consent to the transfer of land or tenant’s interest on land use in Scotland.

- (11) For the purposes of subsections (2)(c)(i), (3)(g)(i), (4), (7)(g)(i) and (8)(b) “relevant community” means the community as defined in subsection (9) of section 49 (reading that subsection as if paragraph (b)(ii) were omitted).
- (12) In determining what constitutes significant benefit to the community for the purposes of subsection (2)(c) or harm to the community for the purposes of subsection (2)(d), the Scottish Ministers must consider the likely effect of granting (or not granting) consent to the transfer of land or tenant’s interest on the lives of the persons comprising that community with reference to the following considerations—
- (a) economic development,
  - (b) regeneration,
  - (c) public health,
  - (d) social wellbeing, and
  - (e) environmental wellbeing.
- (13) In considering a decision under this section on an application under section 54, the Scottish Ministers must have regard to—
- (a) relevant non-Convention human rights, and
  - (b) the desirability of encouraging equal opportunities (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).
- (14) In subsection (13)(a), “relevant non-Convention human rights” means such human rights other than the Convention rights (within the meaning of section 1 of the Human Rights Act 1998)—
- (a) as the Scottish Ministers consider to be relevant, and
  - (b) which are contained in any international convention, treaty or other international instrument ratified by the United Kingdom, including the International Covenant on Economic, Social and Cultural Rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 subject to—
    - (i) any amendment in force in relation to the United Kingdom for the time being, and
    - (ii) any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.

## **57 Ballot to indicate approval for purposes of section 56**

- (1) The community, as defined in section 49 in relation to a Part 5 community body, are to be taken for the purposes of section 56(3)(h) and (7)(h) as having approved a proposal to exercise the right to buy if—
- (a) a ballot of the members of the community so defined has, during the period of 6 months which immediately preceded the date on which the application was made, been conducted by the Part 5 community body on the question whether the Part 5 community body or, as the case may be, the third party purchaser should buy the land or, as the case may be, the tenant’s interest,
  - (b) in the ballot—
    - (i) at least half of the members of the community so defined have voted,
    - or

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- (ii) fewer than half of the members of the community so defined have voted but the proportion which voted is sufficient to justify the Part 5 community body's proceeding to buy the land or tenant's interest, and
  - (c) the majority of those voting have voted in favour of the proposition that the Part 5 community body buy the land or tenant's interest.
- (2) The ballot is to be conducted as the Scottish Ministers may by regulations specify.
- (3) Regulations under subsection (2) must in particular include provision for—
  - (a) the ascertainment and publication of—
    - (i) the number of persons eligible to vote in the ballot,
    - (ii) the number who did vote,
    - (iii) the numbers of valid votes respectively cast for and against the proposition mentioned in subsection (1)(c), and
  - (b) the form and manner in which the result of the ballot is to be published.
- (4) If the ballot is not conducted as specified by regulations under subsection (2), the right to buy is, so far as proceeding on that application, extinguished.
- (5) The Part 5 community body which conducts a ballot must, within 21 days of the ballot (or, if its application under section 54 is given before the expiry of that period, together with the application), and in the form of return specified by the regulations, notify the Scottish Ministers of—
  - (a) the result,
  - (b) the number of persons eligible to vote,
  - (c) the number of persons who voted, and
  - (d) the number of persons who voted in favour of the proposition mentioned in subsection (1)(c).
- (6) The Scottish Ministers may require the Part 5 community body—
  - (a) to provide such information relating to the ballot as they think fit, and
  - (b) to provide such information relating to any consultation with those eligible to vote in the ballot undertaken during the period in which the ballot was carried out as Ministers think fit.
- (7) Subject to subsection (8), the expense of conducting a ballot under this section is to be met by the Part 5 community body.
- (8) The Scottish Ministers may by regulations make provision enabling a Part 5 community body, in such circumstances as may be specified in the regulations, to apply to them to seek reimbursement of the expense of conducting a ballot under this section.
- (9) Regulations under subsection (8) may in particular make provision in relation to—
  - (a) the circumstances in which a Part 5 community body may make an application by virtue of that subsection,
  - (b) the method to be applied by the Scottish Ministers in calculating the expense of conducting the ballot,
  - (c) the criteria to be applied by the Scottish Ministers in deciding whether to make a reimbursement to the applicant,
  - (d) the procedure to be followed in connection with the making of—
    - (i) an application to Ministers,

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- (ii) an appeal against a decision made by Ministers in respect of an application,
- (e) persons who may consider such an appeal,
- (f) the powers of such persons.

## **58 Right to buy same land exercisable by only one Part 5 community body**

- (1) Only one Part 5 community body may apply under this Part in relation to the same land or tenant's interest.
- (2) Where two or more Part 5 community bodies apply under this Part in relation to the same land or tenant's interest, it is for the Scottish Ministers to decide which application is to proceed.
- (3) The Scottish Ministers may not make such a decision unless they have had regard to all views on each of the applications, and responses to the views, which they have received in answer to invitations under section 55.
- (4) On the Scottish Ministers so deciding—
  - (a) any right to buy the land or tenant's interest which is the subject of the other body's application is, so far as proceeding on that application, extinguished, and
  - (b) the Scottish Ministers must give notice in writing to—
    - (i) the owner of the land,
    - (ii) where the application is to buy a tenant's interest, the tenant,
    - (iii) the Part 5 community bodies,
    - (iv) where any application nominates a third party purchaser, the third party purchaser, and
    - (v) every person who was invited, under section 55(1)(a), to send the Scottish Ministers views on the application.

## **59 Consent conditions**

The Scottish Ministers may make their consent to an application made under section 54 subject to conditions.

## **60 Notification of Ministers' decision on application**

- (1) The Scottish Ministers must give notice in writing of their decision on an application, and their reasons for it, to—
  - (a) the applicant Part 5 community body,
  - (b) the owner of the land to which the application relates,
  - (c) where the application is to buy a tenant's interest, the tenant,
  - (d) where the application nominates a third party purchaser, the third party purchaser,
  - (e) every other person who was invited, under section 55(1)(a), to send them views on the application, and
  - (f) the Keeper.
- (2) The notice must set out—

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- (a) the land or, as the case may be, the tenant's interest to which the decision relates,
- (b) to whom the land is to be transferred or, as the case may be, to whom the tenant's interest is to be assigned,
- (c) where the Scottish Ministers' decision is to consent to the application, any conditions imposed under section 59,
- (d) information about the consequences of the decision notified and of the rights of appeal against it given by this Part, and
- (e) the date on which consent is given or refused.

*Procedure following consent*

**61 Effect of Ministers' decision on right to buy**

- (1) The Scottish Ministers may by regulations make provision for or in connection with prohibiting, during such period as may be specified in the regulations, persons so specified from transferring or otherwise dealing with land or, as the case may be, a tenant's interest in respect of which a Part 5 community body has made an application under section 54.
- (2) Regulations under subsection (1) may in particular include provision—
  - (a) specifying transfers or dealings which are not prohibited by the regulations,
  - (b) requiring or enabling specified persons in specified circumstances to register specified notices in the New Register,
  - (c) requiring, in such circumstances as may be specified in the regulations, such information as may be so specified to be incorporated into deeds relating to the land as may be so specified.
- (3) The Scottish Ministers may by regulations make provision for or in connection with suspending, during such period as may be specified in the regulations, such rights in or over land in respect of which a Part 5 community body has made an application under section 54 as may be so specified.
- (4) Regulations under subsection (3) may in particular include provision specifying—
  - (a) rights to which the regulations do not apply,
  - (b) rights to which the regulations do not apply in such circumstances as may be specified in the regulations.
- (5) Nothing in this Part—
  - (a) affects the operation of an inhibition on the sale of the land,
  - (b) prevents an action of adjudication from proceeding, or
  - (c) affects the commencement, execution or operation of any other diligence.

**62 Confirmation of intention to proceed with purchase and withdrawal**

- (1) Where an application made under section 54 does not nominate a third party purchaser, the right to buy of a Part 5 community body is exercisable only if, within 21 days of the date of receiving notice of assessed value under section 65(13), the Part 5 community body sends notice confirming intention to proceed to buy the land or, as the case may be, tenant's interest to—
  - (a) the Scottish Ministers,

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- (b) the owner of the land, and
  - (c) where the application is to buy a tenant's interest, the tenant.
- (2) Where an application made under section 54 nominates a third party purchaser, the right to buy is exercisable only if, within 21 days of the date of receiving notice under section 65(13), both the third party purchaser and the Part 5 community body which nominated the third party purchaser send notice confirming intention to proceed to buy the land or, as the case may be, tenant's interest to—
  - (a) the Scottish Ministers,
  - (b) the owner of the land, and
  - (c) where the application is to buy a tenant's interest, the tenant.
- (3) Where an application made under section 54 does not nominate a third party purchaser—
  - (a) at any time until receiving notice under section 65(13) a Part 5 community body may withdraw an application under section 54 by giving the Scottish Ministers notice in writing to that effect,
  - (b) at any time after receiving notice under section 65(13), the Part 5 community body may withdraw a confirmation of intention to proceed made under this section by giving the Scottish Ministers notice in writing to that effect.
- (4) Where an application nominates a third party purchaser—
  - (a) at any time until receiving notice under section 65(13), only the Part 5 community body which nominated the third party purchaser may withdraw an application under section 54 by giving the Scottish Ministers notice in writing to that effect,
  - (b) at any time after receiving notice under section 65(13), either the third party purchaser or the Part 5 community body which nominated the third party purchaser may withdraw a confirmation of intention to proceed made under this section by giving the Scottish Ministers notice in writing to that effect.
- (5) The Scottish Ministers must, within 7 days of receipt of notice under subsection (1), (2), (3)(a) or (b) or (4)(a) or (b), acknowledge receipt and send a copy of that acknowledgement to—
  - (a) the Keeper,
  - (b) the owner of the land, and
  - (c) where the application is to buy a tenant's interest, the tenant.

## **63 Completion of purchase**

- (1) It is for the Part 5 community body or, as the case may be, the third party purchaser to secure the expeditious exercise of its right to buy and, in particular—
  - (a) to prepare the documents necessary to—
    - (i) effect the transfer to it of the land or, as the case may be, the assignation to it of the tenant's interest, and
    - (ii) impose any conditions (including any real burdens or servitudes) which the Scottish Ministers, under section 59, require to be imposed upon the title to land, and
  - (b) in so doing, to ensure—
    - (i) that the land in the application to which the Scottish Ministers have consented is that to be transferred or assigned, and

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- (ii) that the transfer or assignation is to be effected in accordance with any other conditions imposed by the Scottish Ministers under section 59.
- (2) Where the Part 5 community body or, as the case may be, the third party purchaser is unable to fulfil the duty imposed by subsection (1)(b) because the land or part of the land in respect of which the Scottish Ministers' consent was given is—
- (a) not owned by the person named as its owner in the application made under section 54, or
  - (b) not tenanted by the person named as its tenant in the application made by virtue of section 48(3),
- it must refer that matter to the Scottish Ministers.
- (3) On a reference under subsection (2), the Scottish Ministers must direct that the right to buy of the Part 5 community body or, as the case may be, of the third party purchaser is, so far as proceeding on that application, extinguished.
- (4) The owner of the land being bought is obliged—
- (a) to make available to the Part 5 community body or, as the case may be, the third party purchaser such deeds and other documents as are sufficient to enable completion of its title to the land, and
  - (b) to transfer title accordingly.
- (5) If the owner of the land refuses or fails to make those deeds and other documents available (or they cannot be found) within 6 weeks of the date on which the Scottish Ministers consent to an application to buy land, the Lands Tribunal may, on the application of the Part 5 community body or, as the case may be, the third party purchaser, order the owner or any other person appearing to the Lands Tribunal to have those deeds and documents to produce them.
- (6) If the owner of the land refuses or fails to effect such sufficient transfer as is mentioned in subsection (4), the Lands Tribunal may, on the application of the Part 5 community body or, as the case may be, the third party purchaser, authorise its clerk to adjust, execute and deliver such deeds or other documents as will complete such transfer to the same force and effect as if done by the owner or person entitled.
- (7) Where an application is to buy a tenant's interest, the tenant is obliged to make available to the Part 5 community body or, as the case may be, the third party purchaser such deeds and other documents as are sufficient to enable completion of its acquisition of the tenant's interest and the tenant is obliged to effect the assignation of the tenant's interest accordingly.
- (8) If the tenant refuses or fails to make those deeds and other documents available (or they cannot be found) within 6 weeks of the date on which the Scottish Ministers consent to an application to buy a tenant's interest, the Lands Tribunal may, on the application of the Part 5 community body or, as the case may be, the third party purchaser, order the tenant or any other person appearing to the Lands Tribunal to have those deeds and documents to produce them.
- (9) If the tenant refuses or fails to effect the assignation of the tenant's interest in accordance with subsection (7), the Lands Tribunal may, on the application of the Part 5 community body or, as the case may be, the third party purchaser, authorise its clerk to adjust, execute and deliver such deeds or other documents as will complete the assignation to the same force and effect as if done by the tenant.

## 64 Completion of transfer

- (1) The consideration for the transfer of the land or for the assignment of the tenant's interest is its value as assessed under section 65.
- (2) Subject to subsections (3) to (5), that consideration must be paid not later than the date (the "final settlement date") falling 6 months after the date (the "consent date") when the Scottish Ministers consented to the application made under section 54.
- (3) Where—
  - (a) the Part 5 community body or, as the case may be, the third party purchaser and the owner or, as the case may be, the tenant so agree, the consideration may be paid on a date later than the final settlement date,
  - (b) the assessment of the valuation of the land or the tenant's interest under section 65 or, as the case may be, a determination under section 66 has not been completed by a date 4 months after the consent date, the consideration must be paid not later than 2 months after the date when that assessment is completed or the date when that determination is made, whichever occurs later,
  - (c) that valuation or, as the case may be, determination under section 66 is the subject of an appeal which has not been decided within 4 months of the consent date, the consideration must be paid not later than 2 months after the date of the decision on the appeal against the valuation or, as the case may be, the determination, whichever occurs later.
- (4) The Scottish Ministers may, on the application of any of the parties, extend the final settlement date—
  - (a) in relation to an application to buy land, where an appeal is made—
    - (i) under section 69 in respect of the Scottish Ministers' decision on a related application to buy a tenant's interest,
    - (ii) under section 70(1) in respect of a valuation of that tenant's interest, or
    - (iii) under section 70(2) in respect of a determination carried out under section 66 concerning that related application,
  - (b) in relation to an application to buy a tenant's interest, where an appeal is made—
    - (i) under section 69 in respect of the Scottish Ministers' decision on a related application to buy land, or
    - (ii) under section 70(1) in respect of a valuation of that land.
- (5) If, on the date the consideration is to be paid, the owner is not able to effect the grant of a good and marketable title or, as the case may be, the tenant is not able to assign the tenant's interest—
  - (a) the consideration, or
  - (b) if, for any reason, the consideration has not been ascertained, such sum as may be fixed by the valuer appointed under section 65 as a fair estimate of what the consideration might be,must be consigned into the Lands Tribunal until that title is granted or assignment is effected or the Part 5 community body or, as the case may be, the third party purchaser gives notice to the Tribunal and to the Scottish Ministers of its decision not to proceed to complete the transaction.
- (6) The Scottish Ministers must, within 7 days of receipt of notice of a decision not to proceed under subsection (5), acknowledge receipt and send a copy of that acknowledgement to—

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- (a) the Keeper,
  - (b) the owner of the land,
  - (c) where the application is to buy a tenant's interest, the tenant, and
  - (d) the Part 5 community body or, as the case may be, the third party purchaser.
- (7) Except where subsection (5) applies, if the consideration remains unpaid after the date not later than which it is to be paid, the Part 5 community body's or, as the case may be, the third party purchaser's confirmation of intention to proceed made under section 62 in relation to the land or the tenant's interest is to be treated as withdrawn.
- (8) Any heritable security which burdened the land or tenant's interest immediately before—
- (a) title is granted to the Part 5 community body or, as the case may be, to the third party purchaser, or
  - (b) the tenant's interest is assigned to the Part 5 community body or, as the case may be, to the third party purchaser,
- ceases to do so on the registration in the Land Register of Scotland of the Part 5 community body's or third party purchaser's interest in the land.
- (9) Where such a security also burdens—
- (a) land other than the land in respect of which title is granted to the Part 5 community body or, as the case may be, to the third party purchaser, or
  - (b) a tenant's interest other than the tenant's interest assigned to the Part 5 community body or, as the case may be, to the third party purchaser,
- the security does not, by virtue of subsection (8), cease to burden that other land.
- (10) Unless the creditors in right of any such security otherwise agree, the Part 5 community body or, as the case may be, the third party purchaser must pay to them according to their respective rights and preferences any sum which would, but for this subsection, be paid to the owner by the Part 5 community body or the third party purchaser as consideration for the land or the tenant's interest.
- (11) Any sum paid by a Part 5 community body or a third party purchaser under subsection (10) must be deducted from the sum which the Part 5 community body or third party purchaser is to pay to the owner as consideration for the land or, as the case may be, to the tenant as consideration for the tenant's interest.

## **65 Assessment of value of land etc.**

- (1) Where the Scottish Ministers consent to an application made under section 54 they must within 7 days of doing so appoint a valuer, being a person who appears to the Scottish Ministers—
- (a) to be suitably qualified to consider the matters arising under this section and, as the case may be, under section 66,
  - (b) to be independent, and
  - (c) to have knowledge and experience of valuing land or interests of a kind similar to the land or tenant's interest being bought,
- to assess the value of the land or tenant's interest to which the application relates.
- (2) The validity of anything done under this section is not affected by any failure by the Scottish Ministers to comply with the time limit specified in subsection (1).

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- (3) In assessing the value of land or a tenant's interest in pursuance of an appointment under subsection (1), a valuer—
  - (a) does not act on behalf of the owner of the land, the tenant, the Part 5 community body or, as the case may be, the third party purchaser, and
  - (b) is to act as an expert and not as an arbiter.
- (4) The value to be assessed is the market value of the land or the tenant's interest as at the date when the Scottish Ministers consented to the application made under section 54 relating to the land or the tenant's interest.
- (5) The “market value” of land or a tenant's interest is the aggregate of—
  - (a) the value the land or the tenant's interest would have on the open market as between a seller and a buyer both of whom are, as respects the transaction, willing,
  - (b) any depreciation in the value of other land or interests belonging to the seller which may result from the transfer of the land or the tenant's interest, including depreciation caused by division of the land or interests by the transfer of land to the Part 5 community body or third party purchaser, and
  - (c) the amount attributable to any disturbance to the seller which may arise in connection with the transfer of the land or the tenant's interest to the Part 5 community body or third party purchaser.
- (6) In determining the value which land or a tenant's interest would have on the open market in the circumstances mentioned in subsection (5)(a)—
  - (a) the valuer may take account, in so far as a seller and buyer such as are mentioned in subsection (5) would do so, of any factor attributable to the known existence of a person who (not being the Part 5 community body or third party purchaser which is exercising its right to buy) would be willing to buy the land or the tenant's interest at a price higher than others would, because of a characteristic of the land or the tenant's interest which relates peculiarly to that person's interest in buying it,
  - (b) the valuer may not take account of—
    - (i) any depreciation of the type mentioned in subsection (5)(b),
    - (ii) any disturbance of the type mentioned in subsection (5)(c),
    - (iii) the absence of the period of time during which the land or the tenant's interest would, on the open market, be likely to be advertised and exposed for sale.
- (7) The expense of a valuation under this section is to be met by the Scottish Ministers.
- (8) In carrying out a valuation under this section, the valuer must—
  - (a) invite—
    - (i) the owner of the land,
    - (ii) where the application is to buy a tenant's interest, the tenant,
    - (iii) the Part 5 community body,
    - (iv) where the application nominates a third party purchaser, the third party purchaser,to make representations in writing about the value of the land or tenant's interest, and
  - (b) consider any representations made accordingly.

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- (9) Where written representations under subsection (8) are received—
- (a) from the owner of the land or, as the case may be, the tenant, the valuer must invite the Part 5 community body and, as the case may be, the third party purchaser to send views on the representations in writing,
  - (b) from the Part 5 community body or, as the case may be, the third party purchaser, the valuer must invite the owner of the land and, as the case may be, the tenant to send views on the representations in writing.
- (10) In carrying out a valuation under this section, the valuer must consider any views sent under subsection (9).
- (11) Where the Part 5 community body or, as the case may be, the third party purchaser and the owner of the land have agreed the valuation of the land they must notify the valuer in writing of that valuation.
- (12) Where the Part 5 community body or, as the case may be, the third party purchaser and the tenant have agreed the valuation of the tenant's interest, they must notify the valuer in writing of the valuation.
- (13) The valuer must, within the period set out in subsection (14), give notice of the assessed value of the land or tenant's interest to—
- (a) the Scottish Ministers,
  - (b) the Part 5 community body,
  - (c) where the application nominates a third party purchaser, the third party purchaser,
  - (d) the owner of the land, and
  - (e) where the application is to buy a tenant's interest, the tenant.
- (14) The period referred to in subsection (13) is the period of 8 weeks beginning with the date of appointment of the valuer or such longer period as the Scottish Ministers may, on an application by the valuer, determine.
- (15) The validity of anything done under this Part is not affected by any failure by a valuer to comply with the time limit specified in subsection (14).

## **66 Acquisition of interest of tenant over land: allocation of rents etc.**

- (1) Where an application to buy a tenant's interest does not relate to the entire tenanted land, any resultant question as to the allocation—
- (a) as between the tenant and the Part 5 community body or the third party purchaser of rents payable or receivable, or
  - (b) as between them of rights and obligations generally,
- is to be determined by the valuer when, in pursuance of an appointment under section 65(1), the valuer assesses the value of the interest of the tenant.
- (2) Any determination under subsection (1) is to be such as the valuer considers equitable in all the circumstances.
- (3) Where a determination is made under subsection (1) the valuer must, within the period specified in section 65(14), notify—
- (a) the Part 5 community body,
  - (b) where the application nominates a third party purchaser, the third party purchaser, and

- (c) the tenant.

### *Compensation*

## **67 Compensation**

- (1) Where an application made under section 54 does not nominate a third party purchaser, any person (including an owner or former owner of land, and, where an application is to buy a tenant's interest, a tenant) who has incurred loss or expense—
  - (a) in complying with the requirements of this Part following the making of the application by the Part 5 community body,
  - (b) as a result of the withdrawal by the Part 5 community body of the application under section 62(3)(a),
  - (c) as a result of the withdrawal by the Part 5 community body of its confirmation of intention to proceed under section 62(3)(b), or its failure otherwise to complete the purchase after having so confirmed its intention under that section, or
  - (d) as a result of the failure of the Part 5 community body to complete the purchase,is entitled to recover the amount of that loss or expense from the Part 5 community body.
- (2) Where an application made under section 54 nominates a third party purchaser—
  - (a) any person (including an owner or former owner of land, and, where an application is to buy a tenant's interest, a tenant) who has incurred loss or expense—
    - (i) in complying with the requirements of this Part following the making of the application by the Part 5 community body,
    - (ii) as a result of the withdrawal by the Part 5 community body or, as the case may be, third party purchaser of its confirmation of intention to proceed under section 62(4)(b) or its failure otherwise to complete the purchase after having so confirmed its intention under that section, or
    - (iii) as a result of the failure of the Part 5 community body or, as the case may be, third party purchaser to complete the purchase,is entitled to recover the amount of that loss or expense from the third party purchaser,
  - (b) any such person who has incurred loss or expense as a result of the withdrawal by the Part 5 community body of the application under section 62(4)(a) is entitled to recover the amount of that loss or expense from the Part 5 community body.
- (3) There is no such entitlement under subsections (1) and (2) where the application made under section 54 is refused.
- (4) Where such an application has been refused, an owner of the land or a tenant who has incurred loss or expense as mentioned in subsection (1)(a) or (2)(a)(i) is entitled to recover the amount of that loss or expense from the Scottish Ministers.
- (5) The Scottish Ministers may by regulations make provision for or in connection with specifying—

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- (a) amounts payable in respect of loss or expense incurred as mentioned in subsections (1) and (2),
  - (b) amounts payable in respect of loss or expense incurred by virtue of this Part by a person of such other description as may be specified,
  - (c) the person who is liable to pay those amounts,
  - (d) the procedure under which claims for compensation under this section are to be made.
- (6) Where, at the expiry of such period of time as may be fixed for the purposes of this subsection by regulations under subsection (5)(d), any question as to whether compensation is payable or as to the amount of any compensation payable has not been settled as between the parties, either of them may refer the question to the Lands Tribunal.
- (7) Where either of the parties refers a question to the Lands Tribunal as mentioned in subsection (6), the party so referring the question must (unless that party is the Scottish Ministers), within 7 days of the date of referring it, notify the Scottish Ministers in writing of—
- (a) the reference, and
  - (b) the date of reference.
- (8) The Lands Tribunal must send a copy of its findings on a question referred to it under subsection (6) to the Scottish Ministers.
- (9) Failure to comply with subsection (7) or (8) has no effect on—
- (a) the right to buy of the Part 5 community body or, as the case may be, of the third party purchaser, or
  - (b) the validity of the reference of the question under subsection (6).

## **68 Grants towards liabilities to pay compensation**

- (1) The Scottish Ministers may, in the circumstances set out in subsection (2), pay a grant to a Part 5 community body or a third party purchaser.
- (2) Those circumstances are—
- (a) that after settlement of its other liabilities connected with the exercise of its right to buy land or, as the case may be, a tenant's interest under this Part, the Part 5 community body or, as the case may be, the third party purchaser has insufficient money to pay, or to pay in full, the amount of compensation it has to pay under section 67,
  - (b) that the Part 5 community body or, as the case may be, the third party purchaser has taken all reasonable steps to obtain money in order to pay, or to pay in full, that amount (other than applying for a grant under this section) but has been unable to obtain the money, and
  - (c) that it is in the public interest that the Scottish Ministers pay the grant.
- (3) The fact that all the circumstances set out in subsection (2) are applicable in a particular case does not prevent the Scottish Ministers from refusing to pay a grant in that case.
- (4) A grant under this section may be made subject to conditions which may stipulate repayment in the event of breach.

- (5) The Scottish Ministers may pay a grant under this section only on the application of a Part 5 community body or third party purchaser.
- (6) An application for such a grant must be made in such form and in accordance with such procedure as the Scottish Ministers may by regulations specify.
- (7) The Scottish Ministers must issue their decision on an application under this section in writing accompanied by, in the case of a refusal, a statement of the reasons for it.
- (8) The Scottish Ministers' decision on an application under this section is final.

### *Appeals and references*

#### **69 Appeals to sheriff**

- (1) An owner of land may appeal to the sheriff against a decision by the Scottish Ministers to give consent to an application made under section 54.
- (2) Where such an application is to buy a tenant's interest, the tenant may appeal to the sheriff against a decision by the Scottish Ministers to give consent to the application.
- (3) A Part 5 community body may appeal to the sheriff against a decision by the Scottish Ministers not to give consent to an application made under section 54.
- (4) Subsection (3) does not extend to the Scottish Ministers' decision under section 58 on which of two or more applications made under section 54 to buy the same land or tenant's interest is to proceed.
- (5) A person who is a member of a community (defined under section 49(9)) to which an application relates may appeal to the sheriff against a decision by the Scottish Ministers to give consent to an application made under section 54.
- (6) A creditor in a standard security with a right to sell land may appeal to the sheriff against a decision by the Scottish Ministers to give consent to an application made under section 54.
- (7) An appeal under this section must be lodged within 28 days of the date of the Scottish Ministers' decision on an application made under section 54.
- (8) The sheriff in whose sheriffdom the land which is the subject of the application (or, as the case may be, over which the tenancy has been created) or any part of it is situated has jurisdiction to hear an appeal under this section.
- (9) Where an appeal is made—
  - (a) under subsection (1) the owner must intimate that fact to—
    - (i) the Part 5 community body,
    - (ii) where the application nominates a third party purchaser, the third party purchaser,
    - (iii) where the application is to buy a tenant's interest, the tenant,
    - (iv) the Scottish Ministers, and
    - (v) any creditor in a standard security with a right to sell the land to which the appeal relates,
  - (b) under subsection (2) the tenant must intimate that fact to—
    - (i) the Part 5 community body,

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- (ii) where the application nominates a third party purchaser, the third party purchaser,
    - (iii) the owner,
    - (iv) the Scottish Ministers, and
    - (v) any creditor in a standard security with a right to sell the land to which the appeal relates,
  - (c) under subsection (3) the Part 5 community body must intimate that fact to—
    - (i) where the application nominates a third party purchaser, the third party purchaser,
    - (ii) the owner,
    - (iii) where the application is to buy a tenant’s interest, the tenant,
    - (iv) the Scottish Ministers, and
    - (v) any creditor in a standard security with a right to sell the land to which the appeal relates,
  - (d) under subsection (5) the member of the community must intimate that fact to—
    - (i) the Part 5 community body,
    - (ii) where the application nominates a third party purchaser, the third party purchaser,
    - (iii) the owner,
    - (iv) where the application is to buy a tenant’s interest, the tenant,
    - (v) the Scottish Ministers, and
    - (vi) any creditor in a standard security with a right to sell the land to which the appeal relates,
  - (e) under subsection (6) the creditor must intimate that fact to—
    - (i) the Part 5 community body,
    - (ii) where the application nominates a third party purchaser, the third party purchaser,
    - (iii) the owner,
    - (iv) where the application is to buy a tenant’s interest, the tenant, and
    - (v) the Scottish Ministers.
- (10) The decision of the sheriff in an appeal under this section—
- (a) may require rectification of the New Register,
  - (b) may impose conditions upon the appellant,
  - (c) is final.

## **70 Appeals to Lands Tribunal: valuation**

- (1) The following persons may appeal to the Lands Tribunal against a valuation carried out under section 65—
- (a) the owner of the land,
  - (b) where the application is to buy a tenant’s interest, the tenant,
  - (c) the Part 5 community body,
  - (d) where the application nominates a third party purchaser, the third party purchaser.

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- (2) The following persons may appeal to the Lands Tribunal against a determination carried out under section 66—
  - (a) the tenant,
  - (b) the Part 5 community body,
  - (c) where the application nominates a third party purchaser, the third party purchaser.
- (3) An appeal under this section must state the grounds on which it is being made and must be lodged within 21 days of the date of receiving notice of assessed value under section 65(13).
- (4) In an appeal under this section, the Lands Tribunal may—
  - (a) reassess the value of the land or, as the case may be, the tenant's interest,
  - (b) substitute its own determination for any determination under section 66.
- (5) The valuer whose valuation or determination is appealed against may be a witness in the appeal proceedings.
- (6) The Lands Tribunal must give reasons for its decision on an appeal under this section and must issue a written statement of those reasons—
  - (a) within 8 weeks of the hearing of the appeal, or
  - (b) where subsection (7) applies, by such later date referred to in paragraph (b) (ii) of that subsection.
- (7) This subsection applies where—
  - (a) the Lands Tribunal considers that it is not reasonable to issue a written statement by the time limit specified in subsection (6)(a), and
  - (b) before the expiry of that time limit, the Lands Tribunal has notified the parties to the appeal—
    - (i) that the Lands Tribunal is unable to issue a written statement by that time limit, and
    - (ii) of the date by which the Lands Tribunal will issue such a written statement.
- (8) The validity of anything done under this Part is not affected by any failure of the Lands Tribunal to issue a written statement by the date referred to in subsection (6)(a) or (7) (b)(ii).
- (9) Where a person appeals under subsection (1) or (2), the person must, within 7 days of the date on which the appeal is made, notify the Scottish Ministers in writing of—
  - (a) the making of the appeal, and
  - (b) the date of the making of the appeal.
- (10) The Lands Tribunal must send a copy of the written statement of reasons issued under subsection (6) to the Scottish Ministers.
- (11) Failure to comply with subsection (9) or (10) has no effect on—
  - (a) the right to buy of the Part 5 community body or, as the case may be, of the third party purchaser, or
  - (b) the validity of the appeal under this section.

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- (12) The Scottish Ministers are not competent parties to any appeal under this section by reason only that they appointed the valuer whose valuation or determination is the subject of the appeal.
- (13) The Scottish Ministers' powers under the Lands Tribunal Act 1949 to make rules as respects that Tribunal extend to such rules as may be necessary or expedient to give full effect to this section.

## **71 Reference to Lands Tribunal of questions on applications**

- (1) At any time before the Scottish Ministers reach a decision on an application which has been made under section 54 the following persons may refer to the Lands Tribunal any question relating to the application—
  - (a) the Scottish Ministers,
  - (b) any person who is a member of the community as defined in section 49 in relation to the applicant Part 5 community body,
  - (c) the owner of the land,
  - (d) where the application is to buy a tenant's interest, the tenant,
  - (e) any person who has any interest in the land giving rise to a right which is legally enforceable by that person, or
  - (f) any person who is invited, under section 55(1)(a)(v), to send views to the Scottish Ministers on the application.
- (2) In considering any question referred to it under subsection (1), the Lands Tribunal may have regard to any representations made to it by—
  - (a) the applicant Part 5 community body,
  - (b) the owner of the land,
  - (c) where the application is to buy a tenant's interest, the tenant, or
  - (d) any other person who, in the opinion of the Lands Tribunal, appears to have an interest.
- (3) The Lands Tribunal—
  - (a) must advise the Scottish Ministers of its finding on any question so referred, and
  - (b) may, by order, provide that the Scottish Ministers may consent to the application only if they impose, under section 59, such conditions as the Lands Tribunal may specify.
- (4) If the Lands Tribunal considers any question referred to it under this section to be irrelevant to the Scottish Ministers' decision on the application to which it relates, it may decide to give no further consideration to the question and find accordingly.
- (5) Where a person refers a question to the Lands Tribunal under subsection (1), the person must, within 7 days of the date of referring it, notify the Scottish Ministers of—
  - (a) the reference, and
  - (b) the date of reference.
- (6) Failure to comply with subsection (3)(a) or (5) has no effect on—
  - (a) the validity of the application under section 54 by the Part 5 community body,
  - (b) the right to buy of the Part 5 community body or, as the case may be, of the third party purchaser, or

- (c) the validity of the reference under subsection (1).

## **72 Agreement as to matters appealed**

An appeal under section 69 or 70 does not prevent the parties from settling or otherwise agreeing the matter in respect of which the appeal was made between or among them.

### *Mediation*

## **73 Mediation**

- (1) The Scottish Ministers may, on being requested to do so by a person mentioned in subsection (2), take such steps as they consider appropriate for the purpose of arranging, or facilitating the arrangement of, mediation in relation to the proposed exercise of the right to buy land or a tenant's interest under this Part.
- (2) The persons are—
  - (a) the owner of the land,
  - (b) where the application is a request to buy a tenant's interest, the tenant,
  - (c) any creditor in a standard security over the land or any part of it with a right to sell the land or any part of it,
  - (d) the Part 5 community body,
  - (e) where the application nominates a third party purchaser, the third party purchaser.
- (3) The steps mentioned in subsection (1) include—
  - (a) appointing a mediator,
  - (b) making payments to mediators in respect of services provided,
  - (c) reimbursing reasonable expenses of mediators.