



Community Empowerment (Scotland) Act 2015

2015 asp 6

PART 4

COMMUNITY RIGHTS TO BUY LAND

Modifications of Part 3 of Land Reform (Scotland) Act 2003

62 Crofting community bodies

- (1) Section 71 of the 2003 Act (crofting community bodies) is amended as follows.
- (2) Before subsection (1), insert—
 - “(A1) A crofting community body is, subject to subsection (4)—
 - (a) a body falling within subsection (1), (1A) or (1B), or
 - (b) a body of such other description as may be prescribed which complies with prescribed requirements.”.
- (3) In subsection (1)—
 - (a) for the words “crofting community body is, subject to subsection (4) below,”, substitute “body falls within this subsection if it is”,
 - (b) in paragraph (b), after “land”, insert “, the interest mentioned in section 69A(3)”,
 - (c) in paragraph (c), for “20”, substitute “10”,
 - (d) for paragraph (d), substitute—
 - “(d) provision that at least three quarters of the members of the company are members of the crofting community,”,
 - (e) in paragraph (f), the words “and the auditing of its accounts” are repealed, and
 - (f) in paragraph (h)—
 - (i) after “land”, insert “, interest in land”, and
 - (ii) in sub-paragraph (i), for the words “or community body”, substitute “, community body or Part 3A community body (as defined in section 97D)”.

Status: This is the original version (as it was originally enacted).

(4) After subsection (1), insert—

“(1A) 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 crofting community to which the SCIO relates,
- (b) provision enabling the SCIO to exercise the right to buy land, the interest mentioned in section 69A(3) and sporting interests 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 crofting community,
- (e) provision under which the members of the SCIO who consist of members of the crofting 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
- (i) provision that any surplus funds or assets of the SCIO are to be applied for the benefit of the crofting community.

(1B) 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 crofting community to which the society relates,
- (b) provision enabling the society to exercise the right to buy land, the interest mentioned in section 69A(3) and sporting interests 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 crofting community,
- (e) provision under which the members of the society who consist of members of the crofting 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

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- (i) provision that any surplus funds or assets of the society are to be applied for the benefit of the crofting community.”.
- (5) In subsection (2), after “(1)(c)”, insert “, (1A)(c) or (1B)(c)”.
- (6) After subsection (4), insert—
 - “(4A) Ministers may by regulations from time to time amend subsections (1), (1A) and (1B).
 - (4B) If provision is made under subsection (A1)(b), Ministers may by regulations make such amendment of section 72(1) in consequence of that provision as they consider necessary or expedient.”.
- (7) In subsection (5)—
 - (a) after “(1)(a)”, insert “, (1A)(a) or (1B)(a)”, and
 - (b) in paragraph (a)—
 - (i) in sub-paragraph (i), after “Act”, insert “and who are entitled to vote in local government elections in the polling district or districts in which that township is situated”,
 - (ii) the word “or” immediately following sub-paragraph (i) is repealed, and
 - (iii) in sub-paragraph (ii), for the words from “being” to the end of the paragraph, substitute—
 - “(ii) are tenants of crofts in the crofting township whose names are entered in the Crofting Register, or the Register of Crofts, as the tenants of such crofts;
 - (iii) are owner-occupier crofters of owner-occupied crofts in the crofting township whose names are entered in the Crofting Register as the owner-occupier crofters of such crofts; or
 - (iv) are such other persons, or are persons falling within a class of such other persons, as may be prescribed;”.
- (8) In subsection (6)—
 - (a) for “(5)(a)(i)”, substitute “(5)(a)”,
 - (b) after “above”, insert “—”, and
 - (c) at the end, insert—
 - ““owner-occupied croft” has the meaning given by section 19B(5) of the Crofters (Scotland) Act 1993,
 - “owner-occupier crofter” is to be construed in accordance with section 19B of that Act.”.
- (9) In subsection (8)—
 - (a) after “section”, insert “—”, and
 - (b) at the end, insert—
 - ““community benefit society” means a registered society (within the meaning of section 1 of the Co-operative and Community Benefit

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Societies Act 2014) registered as a community benefit society under section 2 of that Act,
 “registered rules” has the meaning given by section 149 of that Act (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.”.

63 Modification of memorandum, articles, constitution or registered rules

In section 72 of the 2003 Act (provisions supplementary to section 71)—

- (a) in subsection (1), for “or articles of association”, substitute “, articles of association, constitution or registered rules (as defined in section 71(8))”, and
- (b) after subsection (2), insert—

“(3) Subsection (2) does not apply if the crofting community body would no longer be entitled to buy the land because the land is not eligible croft land.

(4) Where the power conferred by subsection (2) is (or is to be) exercised in relation to land, Ministers may make an order relating to, or to matters connected with, the acquisition of the land.

(5) An order under subsection (4) may—

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

64 Application: information about rights and interest in land

(1) Section 73 of the 2003 Act (application by crofting community body for consent to buy croft land etc.) is amended as follows.

(2) In subsection (5)—

- (a) after “form”, insert “, shall specify the persons mentioned in subsection (5ZA)”,
- (b) in paragraph (b)—
 - (i) in sub-paragraph (i), after “application”, insert “known to the crofting community body”, and
 - (ii) the words from “(ii)” to the end of the paragraph are repealed, and
- (c) paragraph (f) is repealed.

(3) After subsection (5), insert—

“(5ZA) The persons are—

- (a) the owner of the land,
- (b) 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,
- (c) the tenant of any tenancy of land over which the tenant has an interest,

(d) the person entitled to any sporting interests,
in respect of which the right to buy is sought to be exercised.”.

(4) After subsection (5A), insert—

“(5AA) Ministers may by regulations—

- (a) modify any of paragraphs (a) to (g) of subsection (5),
- (b) provide for any of those paragraphs not to apply in such cases or circumstances as may be specified in the regulations.”.

(5) In subsection (11), for paragraphs (a) and (b), substitute “in such manner as may be prescribed”.

65 Criteria for consent by Ministers

In section 74 of the 2003 Act (criteria for consent by Ministers), in subsection (1)—

- (a) the word “and” immediately following paragraph (m) is repealed, and
- (b) after paragraph (n), insert—
 - “(o) that the owner of the land to which the application relates is accurately identified in the application,
 - (p) that any creditor in a standard security over the land to which the application relates or any part of it with a right to sell the land or any part of it is accurately identified in the application,
 - (q) in the case of an application made by virtue of section 69A(2), that the tenant whose interest is the subject of the application is accurately identified in the application, and
 - (r) that the person entitled to any sporting interests to which the application relates is accurately identified in the application.”.

66 Ballot: information and expenses

(1) Section 75 of the 2003 Act (ballot to indicate approval for the purposes of section 74(1) (m)) is amended as follows.

(2) After subsection (4), insert—

“(4A) Ministers may require the crofting 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.

(4B) Subject to subsection (6), the expense of conducting a ballot under this section is to be met by the crofting community body.”.

(3) After subsection (5), insert—

“(6) Ministers may by regulations make provision for or in connection with enabling a crofting 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.

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- (7) Regulations under subsection (6) may in particular make provision in relation to—
- (a) the circumstances in which a crofting community body may make an application by virtue of that subsection,
 - (b) the method to be applied by Ministers in calculating the expense of conducting the ballot,
 - (c) the criteria to be applied by 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,
 - (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.”.

67 Application by more than one crofting community body

In section 76 of the 2003 Act (right to buy same croft land exercisable by only one crofting community body), for subsection (4)(b)(i), substitute—

“(i) each person invited, under section 73(8)(a), to send them views on the application.”.

68 Reference to Land Court of questions on applications

In section 81 of the 2003 Act (reference to Land Court of questions on applications), in subsection (1)—

- (a) after paragraph (b), insert—
 - “(ba) the owner of the land which is the subject of the application,
 - (bb) the person entitled to any sporting interests which are the subject of the application,” and
- (b) in paragraph (ca), after “interest”, where it first occurs, insert “—
 - (i) the tenant; and
 - (ii)”.

69 Valuation: views on representations and time limit

In section 88 of the 2003 Act (assessment of value of croft land etc.)—

- (a) after subsection (9), insert—
 - “(9A) Where written representations under subsection (9) are received—
 - (a) from the owner of the land, the tenant or the person entitled to the sporting interests, the valuer must invite the crofting community body which is exercising its right to buy the land, tenant’s interest or sporting interests to send its views on the representations in writing,
 - (b) from the crofting community body which is exercising its right to buy the land, tenant’s interest or sporting interests, the valuer must invite the owner of the land, the tenant or the person entitled to the sporting interests to send the views of the owner,

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tenant or (as the case may be) person on the representations in writing.

(9B) In carrying out a valuation under this section, the valuer must consider any views sent under subsection (9A).”, and

(b) in subsection (13), for the word “6”, substitute “8”.

70 Compensation

In section 89 of the 2003 Act (compensation), for subsection (4), substitute—

“(4) Ministers may, by order, make provision for or in connection with specifying—

- (a) amounts payable in respect of loss or expense incurred as mentioned in subsection (1),
- (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.”.

71 Land Court: reasons for decision under section 92

In section 92 of the 2003 Act (appeals to Land Court: valuation)—

(a) in subsection (5), for the words “within 4 weeks of the hearing of the appeal”, substitute “—

- (a) within 8 weeks of the hearing of the appeal, or
- (b) where subsection (5A) applies, by such later date referred to in paragraph (b)(ii) of that subsection.”,

(b) after subsection (5), insert—

“(5A) This subsection applies where—

- (a) the Land Court considers that it is not reasonable to issue a written statement mentioned in subsection (5) by the time limit specified in paragraph (a) of that subsection, and
- (b) before the expiry of that time limit, the Land Court has notified the parties to the appeal—
 - (i) that the Land Court is unable to issue a written statement by that time limit, and
 - (ii) of the date by which the Land Court will issue such a written statement.”,

(c) in subsection (6), for the words from “to” to the end of the subsection, substitute “—

- (a) to comply with the time limit specified in paragraph (a) of subsection (5) above, or
- (b) to issue a written statement by the date referred to in paragraph (b) of that subsection.”, and

(d) after subsection (6), insert—

“(6A) Where the owner of land, the tenant, the person entitled to the sporting interests or the crofting community body appeals under this section, the owner, tenant, person so entitled or, as the case may be, crofting

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community body must, within 7 days of the date on which the appeal is made, notify Ministers in writing of—

- (a) the making of the appeal, and
- (b) the date of the making of the appeal.

(6B) The Land Court must send a copy of the written statement of reasons issued under subsection (5) to Ministers.

(6C) Failure to comply with subsection (6A) or (6B) has no effect on—

- (a) the crofting community body’s right to buy the land, the tenant’s interest or the sporting interests, or
- (b) the validity of the appeal under this section.”.

72 Register of Crofting Community Rights to Buy

(1) Section 94 of the 2003 Act (Register of Crofting Community Rights to Buy) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a)—

(i) at the beginning, insert “where the crofting community body which has submitted the application is constituted by a company limited by guarantee,” and

(ii) the words from “which” to the end of the paragraph are repealed, and

(b) after paragraph (a), insert—

“(aa) where the crofting community body which has submitted the application is constituted by a Scottish charitable incorporated organisation within the meaning given in section 71(8) (a “SCIO”), the name and address of the principal office of the SCIO,

(ab) where the crofting community body which has submitted the application is constituted by a community benefit society as defined in section 71(8), the name and address of the registered office of the society.”.

(3) After subsection (2), insert—

“(2A) Subsection (2B) applies where—

- (a) a crofting community body changes its name,
- (b) a crofting community body which is constituted by a company limited by guarantee or by a community benefit society changes the address of its registered office, or
- (c) a crofting community body which is constituted by a SCIO changes the address of its principal office.

(2B) The crofting community body must, as soon as reasonably practicable after the change is made, notify the Crofting Commission of the change.”.

(4) After subsection (3), insert—

“(3A) If the crofting community body registering an application requires that any such information or document relating to that application and falling within subsection (3B) as is specified in the requirement be withheld from public

inspection, that information or document is to be kept by or on behalf of Ministers separately from and not entered in the crofting register.

- (3B) 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.
- (3C) Nothing in subsection (3A) or (3B) obliges an applicant crofting community body, or empowers Ministers to require such a body, to submit to Ministers any information or document within subsection (3B).”.

73 Meaning of creditor in standard security with right to sell

After section 97 of the 2003 Act, insert—

“97ZA Meaning of creditor in standard security with right to sell

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.”.