



Land Reform (Scotland) Act 2003

2003 asp 2

PART 3

THE CROFTING COMMUNITY RIGHT TO BUY

CHAPTER 1

GENERAL EXTENT OF CROFTING COMMUNITY RIGHT TO BUY

68 Land which may be bought: eligible croft land

- (1) The land which may be bought under this Part of this Act is eligible croft land.
- (2) In this Part of this Act, “eligible croft land” means—
 - (a) land within the meaning of “croft” given by section 3 (meaning of “croft” and “crofter”) of the Crofters (Scotland) Act 1993 (c. 44) (“the 1993 Act”) together with any land or right which is deemed by subsections (4) or (5) of that section to be a croft or part thereof (including arable machair and scattalds);
 - (b) any land in which a tenant of a croft, whether alone or in common with others, has a right of pasture or grazing;
 - (c) any land—
 - (i) comprising any part of a common grazing held by a tenant of a croft;
or
 - (ii) held runrig by a tenant of a croft,
which has not been apportioned for the exclusive use of a tenant of a croft under section 52 of the 1993 Act; and
 - (d) any land which consists of salmon fishings in inland waters within or contiguous to, or mineral rights (other than rights to oil, coal, gas, gold or silver) in, land referred to in paragraphs (a) to (c) above (including any such fishings or rights which are owned separately from that land).
- (3) Eligible croft land does not, however, include any croft occupied or worked by its owner or a member of its owner’s family.
- (4) In subsection (3) above, the reference to a croft being occupied includes—

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- (a) a reference to its being occupied otherwise than permanently; and
 - (b) a reference to its being occupied by way of the occupation by its owner of any dwellinghouse on or pertaining to it.
- (5) In this Part of this Act, “inland waters” has the same meaning as in the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c. 26).

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

- (1) A crofting community body may apply, under section 73 below, to buy eligible croft 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 Ministers have not made a decision,
 to buy the croft 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 crofting community body—
- (a) has provided confirmation under section 85(1) below of its intention to proceed to buy the croft land to which the fishings or rights relate; or
 - (b) has bought and retained that related croft land in accordance with the provisions of this Part of this Act.
- (3) In subsection (1) above, “relevant period” means the period beginning with the date on which Ministers consented to the application under section 73 below to buy the croft land to which the fishings or rights relate and ending—
- (a) where the crofting community body does not proceed to exercise its right to buy that related croft land, on the date on which it withdraws, under section 85(2) below, its confirmation to so proceed; or
 - (b) where the crofting community body has bought and retained that related croft land—
 - (i) in relation to salmon fishings, one year; or
 - (ii) in relation to mineral rights, five years,
 after the date on which the crofting community body bought that land.

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

- (1) Where eligible croft land is being bought under this Part of this Act eligible additional land may also be so bought.
- (2) Where eligible croft land is being, or has been, bought under this Part of this Act eligible sporting interests may, subject to subsection (3) below, also be so bought.
- (3) Where the crofting community body have bought, and retained ownership of, eligible croft land in accordance with the provisions of this Part of this Act it may, within the period beginning with the date on which Ministers consented to the application under section 73 below to buy the eligible croft land and ending 5 years after the date on which the crofting community body bought that land, apply under that section to buy eligible sporting interests which have not previously been leased by the crofting community body under section 83 below.

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- (4) In this Part of this Act—
- “eligible additional land” means, in relation to a crofting community body, land—
- (a) any part of which is contiguous to the eligible croft land which is being bought by the body; and
 - (b) owned by the owner of such eligible croft land,
- other than land which consists of salmon fishings in inland waters within or contiguous to, or mineral rights in, such land; and
- “eligible sporting interests” means the rights of a person other than the owner of eligible croft land under any lease or other contract to shoot or fish on the land.
- (5) The definition of “eligible sporting interests” in subsection (4) above does not include any right under a lease of salmon fishings in inland waters within or contiguous to eligible croft land.

71 Crofting community bodies

- (1) A crofting community body is, subject to subsection (4) below, a company limited by guarantee, the memorandum and articles of association of which include the following—
- (a) a definition of the crofting community to which the company relates;
 - (b) provision enabling the company to exercise the right to buy land and sporting interests under this Part of this Act;
 - (c) provision that the company must have not fewer than 20 members;
 - (d) provision whereby the majority of the members of the company is to consist of members of the crofting community;
 - (e) provision whereby the members of the company who consist of members of the crofting community have control of the company;
 - (f) provision ensuring proper arrangements for the financial management of the company and the auditing of its accounts;
 - (g) provision that any surplus funds or assets of the company are to be applied for the benefit of the crofting community; and
 - (h) provision that on the winding up of the company and after satisfaction of its liabilities, its property (including any land and sporting interests acquired by it under this Part of this Act) passes—
 - (i) to such other crofting community body or community body as may be approved by Ministers; or
 - (ii) if no other such body is so approved, to Ministers or to such charity as Ministers may direct.
- (2) Ministers may, if they think it in the public interest to do so, disapply the requirement specified in subsection (1)(c) above in relation to any body they may specify.
- (3) In subsection (1) above, “company limited by guarantee” has the same meaning as in section 1(2)(b) of the Companies Act 1985 (c. 6).
- (4) A body is not a crofting community body unless 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.
- (5) A crofting community shall be defined for the purposes of subsection (1)(a) above—

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- (a) as those persons who—
 - (i) are resident in the crofting township which is situated in or otherwise associated with the croft land which the crofting community body has a right to buy under this Part of this Act; or
 - (ii) being tenants of crofts in that crofting township, are resident in any other place within sixteen kilometres of that township, and who are entitled to vote in local government elections in the polling district or districts in which that township or, as the case may be, that other place is situated; or
 - (b) if, in Ministers' opinion, it is inappropriate so to define the crofting community, in such other way as Ministers approve for the purposes of this paragraph.
- (6) In subsection (5)(a)(i) above, “crofting township” means—
- (a) any two or more crofts which share the right to use a common grazing together with that common grazing and any houses pertaining to or contiguous to those crofts or that common grazing; or
 - (b) any combination of two or more crofting townships within that meaning.
- (7) The memorandum and articles of a company which is a crofting community body may, notwithstanding the generality of paragraph (h) of subsection (1) above, provide that its property may, in the circumstances mentioned in that paragraph, pass to another person only if that person is a charity.
- (8) In this section, “charity” means a body which is entitled, by virtue of section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), to describe itself as “a Scottish charity”.

72 Provisions supplementary to section 71

- (1) A crofting community body which has bought land under this Part of this Act shall not, for as long as the land remains in its ownership, modify its memorandum or articles of association without Ministers' consent in writing.
- (2) If Ministers are satisfied that a body which has so bought land would, had it not so bought that land, no longer be entitled to do so, they may acquire the land compulsorily.