



Land Reform (Scotland) Act 2003

2003 asp 2

PART 3

THE CROFTING COMMUNITY RIGHT TO BUY

CHAPTER 2

EXERCISE OF RIGHT TO BUY

74 Criteria for consent by Ministers

- (1) Ministers shall not consent to an application under section 73 above unless they are satisfied—
- (a) that the croft land to which the application relates is eligible croft land;
 - (b) that any additional land to which the application relates is eligible additional land;
 - (c) that any eligible additional land is to be bought only at the request or with the consent of its owner;
 - (d) that any salmon fishings to which the application relates are eligible croft land;
 - (e) that any mineral rights to which the application relates are eligible croft land;
 - (f) that any sporting interests to which the application relates are eligible sporting interests;
 - (g) that the subjects of the application have not previously been bought under this Part of this Act and disposed of by the crofting community body;
 - (h) that the owner is not—
 - (i) prevented from selling the subjects of the application; or
 - (ii) subject to any enforceable personal obligation (other than an obligation arising from any right mentioned in section 84(1) below), or order of the Land Court, to sell them otherwise than to the crofting community body;
 - (i) that the crofting community body complies with the provisions of section 71 above;

Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Section 74. (See end of Document for details)

- (j) that the exercise by the crofting community body of the right to buy under this Part of this Act is compatible with furthering the achievement of sustainable development;
- (k) that, where the subjects of the application are salmon fishings, mineral rights or sporting interests, the crofting community body has or is acquiring sufficient croft land to enable those subjects to be exploited so as to support the development of the crofting community defined in relation to that body in pursuance of section 71 above;
- (l) that the crofting community so defined are, in relation to the subjects of the application, an appropriate crofting community;
- (m) that the crofting community so defined have approved the proposal to exercise the right to buy; ^{F1}...
- (n) that it is in the public interest that the right to buy be exercised.
- [^{F2}(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.]

[^{F3}(1A) But subsection (1)(a) above is subject to section 69A above.]

- (2) For the purposes of subsection (1)(n) above, the public interest includes the interest of any sector (however small) of the public which, in the opinion of Ministers, would be affected by the exercise of the right to buy, and such a sector includes a community as defined for the purposes of section 34(1)(a) above and a crofting community as defined for the purposes of section 71(1)(a) above.

Textual Amendments

- F1** Word in s. 74(1) repealed (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), ss. [65\(a\)](#), [142\(1\)](#); S.S.I. 2020/448, art. 2 (with art. 3)
- F2** S. 74(1)(o)-(r) inserted (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), ss. [65\(b\)](#), [142\(1\)](#); S.S.I. 2020/448, art. 2 (with art. 3)
- F3** S. 74(1A) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43(3)(4), [Sch. 1 para. 5\(4\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.

Changes to legislation:

There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Section 74.