



# Land Reform (Scotland) Act 2003

## 2003 asp 2

### PART 3

#### THE CROFTING COMMUNITY RIGHT TO BUY

### CHAPTER 2

#### EXERCISE OF RIGHT TO BUY

#### **77 Reference to Land Court of purchase of eligible additional land without owner's consent**

- (1) Where the owner of any eligible additional land to which an application under section 73 above relates has not requested, or consented to, the sale of that land Ministers shall refer to the Land Court the question of whether the eligible additional land may be bought by the crofting community body without the consent of its owner.
- (2) In considering any question referred to it under subsection (1) above, the Land Court may have regard to any representations made to it by—
  - (a) the applicant crofting community body;
  - (b) the owner of the land which is the subject of the application; or
  - (c) any other person who, in the opinion of the Land Court, appears to have an interest.
- (3) On a reference under subsection (1) above the Land Court may determine that eligible additional land may be purchased by the crofting community body without the consent of its owner (and such determination shall have the same effect as if Ministers had been satisfied as to the matter referred to in section 74(1)(c) above) but only if the court is satisfied—
  - (a) that the purchase of the eligible additional land by the crofting community body is essential to the development of the crofting community;
  - (b) that such development is compatible with furthering the achievement of sustainable development;

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*Status: This is the original version (as it was originally enacted).*

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- (c) that the purpose to which that land would be put cannot reasonably be achieved by means within the powers of the Court other than by its purchase under this Part of this Act by the crofting community body;
  - (d) that where that land forms part of an area of land all of which is in the same ownership, the purchase of the land will not seriously jeopardise the continued use and management of the remaining land; and
  - (e) that that land does not exceed, in area, whichever is the greater of—
    - (i) 10 hectares; or
    - (ii) 5 per cent of the combined area of the land and any croft land being bought or which had previously been bought under this Part of this Act by the crofting community body.
- (4) Where the Land Court determine, under subsection (3) above, that eligible additional land may be purchased by the crofting community body without the consent of its owner it may provide that Ministers shall, under section 80 below, make their consent to the application subject to the imposition, on transfer of the land, of such conditions upon the title to the land as the Court may specify.
- (5) If the Land Court considers that the purpose to which eligible additional land or any part of it is proposed to be put can be substantially achieved by imposing conditions upon the title to that land, it may make an order—
- (a) approving the purchase of the land sought to be bought but not the eligible additional land or that part of it; and
  - (b) providing that Ministers shall, under section 80 below, make their consent to the application subject to the imposition of such title conditions as the Court considers appropriate on the eligible additional land or, as the case may be, that part of it.
- (6) An order under subsection (5) above has the same effect as Ministers being satisfied as to the matter set out in section 74(1)(c) above.
- (7) The references in subsections (4) and (5) above to conditions upon the title to the land include references to real burdens and servitudes.