

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Community rights to buy land

Modifications of Part 2 of Land Reform (Scotland) Act 2003 : the community right to buy

Evidence and notification of concluded missives or option agreements

91. [Section 43](#) of the Act inserts a new section 39A into the 2003 Act in relation to evidence and notification of concluded missives or option agreements. The new subsection (4A) and amended subsection (5) of section 39 of the 2003 Act (under section 42(7) and (8) of the Act) provide that where an application is received after missives have been concluded in respect of the land or an option conferred, Ministers must decline to consider the application. If the application did not disclose that missives have been concluded or an option conferred then the owner of the land (or a creditor in a standard security with a right to sell) must provide evidence of concluded missives or an option agreement to Ministers within 21 days of receiving a copy of the application under section 37(5)(a) of the 2003 Act. Additional information on option agreements must also be provided, namely, the date of the option agreement and whether or not and how it may be extended. If the application does disclose that missives have been concluded or an option conferred and by virtue of section 39(4A) and (5) of the 2003 Act Ministers are not required to send a copy of the application to the land owner or a creditor in a standard security with a right to sell, then section 39A(4) will apply. This requires Ministers to send a copy of the application to the land owner and any such creditor and require them to provide evidence of the concluded missives or option conferred. The land owner and creditor will also be required to provide further information about the option conferred.