

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Community rights to buy land

Insertion of Part 3A of Land Reform (Scotland) Act 2003: community right to buy abandoned, neglected or detrimental land

Right to buy eligible land

175. The new section 97C of the 2003 Act defines land which is to be classed as eligible for the purposes of Part 3A of the 2003 Act. Subsection (2) provides that eligible land is land which, in the opinion of Ministers, is wholly or mainly abandoned or neglected, or land where the use or management of that land is such that it results in or causes harm to the environmental wellbeing of the relevant community.
176. Subsection (3) provides definitions of ‘harm’ and ‘relevant community’ as used in subsection (2).
177. Subsection (4) requires Ministers to make regulations setting out what factors they must have regard to when deciding whether land is eligible for the purposes of Part 3A.
178. Subsection (5) provides that eligible land does not include certain land. Land which is not eligible includes land on which there is building or other structure which is an individual’s home, other than a building or structure which is occupied by an individual under a tenancy; land pertaining to an individual’s home as may be set out in regulations, eligible croft land (as defined in section 68 of the 2003 Act) or croft land which is occupied or worked by its owner or members of their family; land which is owned by the Crown by virtue of it having vested as *bona vacantia* (because no owner exists or can be identified) or it having fallen to the Crown as *ultimus haeres* (because no heir to the previous owner exists or can be identified); and land of such other descriptions that Ministers may set out in regulations.
179. Subsection (6) gives Ministers the power to set out in regulations what is, or is to be treated as, an individual’s home; and to set out in regulations descriptions or classes of occupancy or possession which are, or are to be treated as, a tenancy for the purposes of subsection (3).