

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

Ballot to indicate approval for purposes of section 97H

228. The new section 97J of the 2003 Act sets out the requirements for a ballot to establish that a right to buy application by a Part 3A community body has the support of its community.
229. Subsection (1) provides that a proposal by a Part 3A community body to exercise a community right to buy will be deemed to have been approved by the relevant community, if, firstly, the ballot takes place within the six-month period immediately preceding the date of the right to buy application; secondly, that at least half of the community voted in the ballot or where fewer than half of the members of the community voted, the proportion that voted is sufficient to justify the community body proceeding to purchase the land; and finally, that the majority of the votes cast were in favour of making the application.
230. Subsection (2) provides that the ballot must be conducted as prescribed by Ministers in regulations. Subsection (3) sets out the matters which must be prescribed in those regulations.
231. Subsection (4) specifies that the Part 3A community body must notify Ministers of the result within 21 days of the ballot or, where the application is made before the expiry of that 21-day period, at the same time as the application is submitted. This subsection also sets out what information about the ballot the community body must provide to Ministers.
232. Subsection (5) provides that Ministers may require a Part 3A community body to provide further information about the ballot or any consultation that the community body may have held with the wider community about their application.
233. Subsection (6) provides that the Part 3A community body is responsible for the expense of conducting the ballot. Subsections (7) and (8) give Ministers regulation-making powers which can be used to allow a Part 3A community body, in particular prescribed circumstances, to apply to Ministers to seek reimbursement of the cost of conducting the ballot.
234. Subsection (9) provides that where a ballot is not conducted in accordance with the regulations made by Ministers, the Part 3A community body's right to buy will be extinguished.