

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

Introduction

173. [Section 74](#) of the Act inserts a new Part 3A into the 2003 Act to give communities a right to buy land that is wholly or mainly abandoned or neglected, or where the use or management of the land causes harm to the environmental wellbeing of the community, for the purposes of the sustainable development of that land, where there is no willing seller.

Meaning of land

174. The new section 97B of the 2003 Act provides that land for the purposes of Part 3A of the 2003 Act includes bridges and other structures built on or over land, inland waters, canals, and the foreshore (which is the land between the high and low water marks of ordinary spring tides).

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).

Part 3A community bodies

180. The new section 97D of the 2003 Act outlines the requirements which must be met by a body so that it is eligible to purchase land under Part 3A of the 2003 Act.
181. Subsections (1) to (4) specify that a Part 3A community body must be a company limited by guarantee, Scottish charitable incorporated organisation (SCIO) or community benefit society (BenCom), or any other type of body which Ministers specify in regulations. Subsections (1) to (4) also list the requirements which must be included in the body's articles of association, constitution or registered rules. If a body does not meet the applicable conditions imposed by subsections (1) to (4), it will not be a Part 3A community body and so will not be eligible to purchase land under Part 3A of the 2003 Act.
182. Subsection (5) allows Ministers to disapply the requirement that the articles of association, constitution or registered rules of a Part 3A community body must require that the body must have a minimum of 10 members.
183. Subsection (6) provides that a Part 3A community body is not defined as such until Ministers give their written consent that they are satisfied that the body's main purpose is consistent with furthering the achievement of sustainable development. Subsection (7) gives Ministers a power to amend the criteria which a company limited by guarantee, SCIO or BenCom must meet in order to be a Part 3A community body.
184. Subsection (9)(a) sets out that the articles of association, constitution or registered rules of a Part 3A community body must define the community to which it relates by reference to a postcode unit (or units) or a type of area which Ministers set out in regulations. A community may also be defined with reference to both of these things. Subsection (9)(b) provides that the community includes people who are resident in that postcode unit or in one of the postcode units or other areas set out by Ministers in regulations. In addition to being resident, members of the community must also be entitled to vote at local government elections in a polling district that encompasses that postcode unit or postcode units or the alternative areas set out by Ministers in regulations.
185. Subsection (11) specifies that the articles of association of a Part 3A community body may provide that its property may, in circumstances outlined in subsection (2)(h), pass to another person only if that person is a charity. Subsection (8) defines a charity for the purposes of this section as a body which is entered in the Scottish Charity Register.
186. Subsection (12) provides definitions of a "charity", "community benefit society", "company limited by guarantee", "registered rules", and "Scottish charitable incorporated organisation" for the purposes of this section.

Provisions supplementary to section 97D

187. The new section 97E of the 2003 Act sets out the constraints which apply to a Part 3A community body after it has acquired land under Part 3A of the 2003 Act.
188. Subsection (1) provides that a Part 3A community body cannot change its memorandum, articles of association, constitution or registered rules without prior consent from Ministers in writing, while the land bought under Part 3A of the 2003 Act remains in its ownership.
189. Subsection (2) allows Ministers to acquire the land compulsorily if a Part 3A community body, which has bought land under Part 3A of the 2003 Act, would no longer be entitled to buy the land.

190. Subsection (3) provides that Ministers cannot exercise their powers under subsection (2) to acquire the land compulsorily if the land is no longer considered to be eligible. This means that Ministers will not be able to exercise their powers on the basis that a Part 3A community body has purchased the land and the land is no longer considered by Ministers to be eligible for the purposes of Part 3A (as defined in section 97C(2) of the 2003 Act).
191. Subsection (4) provides that where Ministers exercise the power conferred by subsection (2), they may make an order in relation to acquiring the land. Subsection (5) sets out the scope of any such order.

Register of Community Interests in Abandoned, Neglected or Detrimental Land

192. The new section 97F of the 2003 Act provides for the creation of a Register of Community Interests in Abandoned, Neglected or Detrimental Land.
193. Subsection (1) requires the Keeper of the Registers of Scotland (“the Keeper”) to set up and maintain a Register of Community Interests in Abandoned or Neglected Land (“the Register”).
194. Subsection (2) specifies information and documents which must be kept in the Register and provides that these must be kept in a form convenient for public inspection.
195. Subsection (3) provides who must provide the information and documents which are to be recorded in the Register to the Keeper.
196. Subsections (4) and (5) allow a Part 3A community body to require that information or documentation which relates to the raising or expenditure of money to allow land to which the application relates to be used should be withheld from public inspection. Such information or documentation will not be entered in the Register. In terms of subsection (6), Ministers cannot require a Part 3A community body to provide such information or documentation. Subsections (7) and (8) provide that if a community body changes its name or the address of its registered or principal office, it must notify the Keeper of the change as soon as reasonably practicable after the change is made.
197. Subsection (9) confers powers on Ministers to make regulations to amend the information that is to be made publicly available in the Register, to amend the provision about the Part 3A community body requesting that certain information can be withheld from the Register and to amend the type of information that may be withheld.
198. Subsection (10) sets out the duties which are imposed on the Keeper. The Keeper must make the Register available at all reasonable times for inspection free of charge, ensure that members of the public are able to request copies of the entries on payment of a charge as may be set out by Ministers in regulations, and that if anyone requests a certified true copy of the original document this will be supplied on payment of such a charge.
199. Subsection (12) provides that the Keeper means the Keeper of the Registers of Scotland or such person as Ministers appoint to carry out the Keeper’s functions under Part 3A of the 2003 Act (and under subsection (13) different persons may be appointed in place of the Keeper for different purposes under Part 3A of the 2003 Act).

Right to buy: application for consent

200. The new section 97G of the 2003 Act deals with the process of applying to exercise the right to buy land under Part 3A of the 2003 Act.
201. Subsection (1) provides that the right to buy eligible land (as defined in section 97C(2) of the 2003 Act) can only be exercised by a Part 3A community body. Subsection (2) specifies that the right can only be exercised with Ministers’ consent on the written application of the Part 3A community body.
202. Subsection (3) provides that a right to buy land can be exercised on multiple holdings, but separate applications must have been made for each holding of land. A holding

of land is defined in subsection (4) as being a plot of land owned by one person or in common or joint ownership. Ministers may consider and make a decision on these applications separately from one another.

203. Subsection (5) specifies that an application must set out who the owner of the land is, any tenant of the land, and any creditor in a standard security with a right to sell the land or any part of it. Ministers have power to set out the required form of the application in regulations. The application must also include or be accompanied by information of the kind specified by Ministers in regulations.
204. Subsection (6) lists the matters which the Part 3A community body must include in the application or which must accompany the application. These include why a Part 3A community body's proposed purchase is in the public interest, how it is compatible with furthering the achievement of sustainable development, and the reasons why it considers the land to be wholly or mainly abandoned or neglected or is being used or managed in such a way as to result in or cause harm to the environmental wellbeing of the relevant community. If the land is being used or managed in such a way as to cause harm to the environmental wellbeing of the relevant community, the community body is required to give to Ministers information about the request the community body has made to all relevant regulators requesting that they take action to remedy or mitigate the harm being caused to that community.
205. Subsection (7) specifies that at the same time as the Part 3A community body applies to Ministers, it must send a copy of its application form (including the associated material) to the owner of the land. It also requires the Part 3A community body to send a copy of the application to any known creditor in a standard security over the land with a right to sell and invite them to give notice, within 60 days, to the Part 3A community body and Ministers if the creditor has taken the steps mentioned in subsection (8) to enforce the security. If such notice is given, creditors must provide any views or comments they may have about the application to Ministers in writing within the 60-day period.
206. Subsection (9) provides that upon receiving the application under section 97G, Ministers must invite the owner of the land, any tenant of the land, any creditor in a standard security and any other person that may have an interest in the application to send back written comments on the application within 60 days of the Ministers' invitation. Ministers must also take reasonable steps to invite comments from owners of land adjacent to the land to which the application relates. The community body must be sent copies of such invitations.
207. Subsection (10) specifies the additional matters which the invitation must invite the landowner to provide comment on.
208. Subsection (11) provides that Ministers must give public notice of receipt of the application as soon as practicably possible and invite views within 60 days of the publication of the notice. Subsection (12) confers a power on Ministers to make regulations to specify the form of the advertisement giving public notice of the application.
209. Subsection (13) provides that Ministers must pass all views received on to the Part 3A community body for further comment. The community body's comments must be received within 60 days of Ministers sending the invitation to comment.
210. Subsection (14) provides that when considering whether or not to give consent to the application, Ministers must have regard to all views received with regard to the application.
211. Subsection (15) provides that Ministers must decline to consider an application that does not comply with the requirements of the new section 97G, is incomplete or where Ministers are otherwise bound to reject it. If such is the case, then Ministers are not bound to follow the steps laid out in subsection (9) to (14).

212. Subsection (16) sets constraints on the timing of the Ministers' decision on an application. It provides that Ministers must not make any decision on the application before the end of the 60-day period within which a community may respond to a landowner's comments, under subsection (13). Alternatively, if by the date of 60 days after the date on which the Part 3A community body may provide Ministers with a response to an invitation sent under subsection (13), the Lands Tribunal has not notified Ministers of any finding under new section 97X of the 2003 Act, Ministers must not make a decision until the date on which the Lands Tribunal provides Ministers with that finding.

Criteria for consent

213. The new section 97H of the 2003 Act sets out that Ministers must not consent to a Part 3A community right to buy unless they are satisfied about the matters listed in the section.
214. Subsection (1)(a) requires Ministers to be satisfied that the land a Part 3A community body is proposing to buy is land which is eligible under the new section 97C of the 2003 Act.
215. Subsection (1)(b) requires Ministers to be satisfied that the exercise of the right to buy by a Part 3A community body is in the public interest and its plans for the land are compatible with furthering the achievement of sustainable development.
216. Subsection (1)(c) requires Ministers to be satisfied that the achievement of sustainable development in relation to the land would be unlikely to be furthered by the owner of the land continuing to be its owner. This requirement only applies when the application is being made on the basis that the land is abandoned or neglected, and not where the use or management of the land is resulting in or causing harm to the environmental wellbeing of the community.
217. Subsection (1)(f) requires Ministers to be satisfied that the owner of the land is not prevented from selling the land or is not under an obligation to sell the land to someone other than the Part 3A community body (other than an obligation which is suspended by the regulations which are to be made by Ministers under the new section 97N(3)).
218. Subsection (1)(g) requires Ministers to be satisfied that a Part 3A community body meets the requirements in section 97D.
219. Subsection (1)(h) requires Ministers to be satisfied that a significant number of the members of the community which the Part 3A community body represents have a connection with the land; the land is sufficiently near to land to which those members of the community have a connection; if the community body is a company limited by guarantee, Scottish charitable incorporated organisation or community benefit society that the land is sufficiently near to the area of the community as defined in the right to buy application; or if the community body is another form of body as prescribed by Ministers, that the land is sufficiently near to the area of the community to which that community body relates.
220. Subsection (1)(i) requires Ministers to be satisfied that the community which the Part 3A community body represents has approved the proposal to exercise the right to buy under Part 3A. The new section 97J of the 2003 Act provides that the community is taken as having approved the proposal if a ballot is conducted as set out in that section.
221. Subsection (1)(j) requires Ministers to be satisfied that the Part 3A community body has tried and failed to buy the land, other than by making an application under Part 3A.
222. Subsection (2) provides that the criteria for consent laid down in subsection (1) are subject to subsections (3) to (7).

223. Subsection (3) provides that subsections (4) to (7) apply only to an application made on the grounds that the use or management of the land results in or causes harm to the environmental wellbeing of the community.
224. Subsection (4) provides that, when considering whether to consent to an application, that Ministers are not required to be satisfied that the achievement of sustainable development in relation to the land would be unlikely to be furthered by the land owner continuing to be the owner of the land.
225. Subsection (5) provides additional criteria of which Ministers must be satisfied in order to consent to an application. Ministers must be satisfied that, in exercising their right to buy, the community body will remove, or substantially remove, the harm to the environmental wellbeing of the community. The community body is also required to have made a request all relevant regulators to take action to remedy or mitigate the harm which is being caused to the environmental wellbeing of the community.
226. Subsections (6) and (7) provide definitions of “regulator”, “relevant regulator” “relevant functions” “regulatory functions”, “relevant regulatory function” and “regulatory requirement”.
227. Subsection (8) provides that, when Ministers are considering the criteria for consenting to an application, that references to a community are references to the community as defined in the community body’s application.

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.

Right to buy same land exercisable by only one Part 3A community body

235. The new section 97K of the 2003 Act deals with the situation where there is more than one Part 3A community body interested in buying the same land.
236. Subsection (1) provides that only one Part 3A community body may exercise the right to buy that land.
237. Subsection (2) provides where more than one Part 3A community body submits an application seeking to buy the same land, Ministers will decide which application should be allowed to proceed.
238. Subsection (3) provides that Ministers must not take any decision on any of the applications before they have considered all views and responses related to each application.
239. Subsection (4) provides that once Ministers have decided which Part 3A community body's right to buy application shall be allowed to proceed, the other community body's right to buy shall be extinguished. It also specifies who must be notified of Ministers' decision.

Consent conditions

240. The new section 97L of the 2003 Act provides that Ministers may impose conditions to their consent to an application to exercise the Part 3A community right to buy. These conditions may, for example, require that certain actions or steps must be taken by the Part 3A community body.

Notification of Ministers' decision on application

241. The new section 97M of the 2003 Act sets out how Ministers must notify the relevant parties of their decision to consent to or refuse an application.
242. Subsection (1) provides that Ministers must give notice in writing of their decision to consent to or refuse an application under section 97G to exercise the Part 3A community right to buy, and identifies the persons to whom such notice must be given. The form of the notice is to be set out in regulations.
243. Subsection (2) provides that regulations made by Ministers must require that the notice includes a full description of the land covered by the Ministers' decision and, where consent is given, any conditions imposed by Ministers.
244. Subsection (3) specifies that the notice must contain information about the consequences of the decision and the rights of appeal against it and state the date on which the consent is given.

Effect of Ministers' decision on right to buy

245. The new section 97N(1) of the 2003 Act gives Ministers powers to make regulations prohibiting certain persons from transferring or otherwise dealing with the land in respect of which an application under section 97G has been made.
246. Subsection (2) sets out matters that the regulations under subsection (1) may include.
247. Subsection (3) provides that Ministers may make regulations to suspend rights over land in respect of which a Part 3A application has been made. Subsection (4) sets out that these regulations may provide for rights which will not be suspended, as well as rights which will not be suspended in certain circumstances.
248. Subsection (5) provides that nothing in Part 3A of the 2003 Act prejudices the position of creditors seeking to prevent the disposal of heritable property by a debtor by means of inhibition, action of adjudication or any other diligence.

Confirmation of intention to proceed with purchase and withdrawal

*These notes relate to the Community Empowerment (Scotland)
Act 2015 (asp 6) which received Royal Assent on 24 July 2015*

249. The new section 97P of the 2003 Act sets out the procedure which follows Ministers consenting to the exercise of a right to buy by a Part 3A community body, depending on whether or not the community body wishes to proceed with the purchase.
250. Subsection (1) provides that a Part 3A community body may exercise its right to buy only if, within 21 days of the valuer notifying Ministers, the Part 3A community body and the owner of the assessed value of the land under 97S(10), the Part 3A community body sends written notice to Ministers and the owner confirming its intention to proceed to buy the land.
251. Subsection (2) provides that, by notice in writing to Ministers, the Part 3A community body may withdraw its right to buy application or its confirmation of its intention to proceed with the purchase at any time.
252. Subsection (3) specifies the action to be taken by Ministers on receipt of such notices.
- Completion of purchase**
253. The new section 97Q of the 2003 Act deals with conveyancing practicalities relevant to the transfer of land following Ministers giving consent to a Part 3A community right to buy application.
254. Subsection (1) provides that the Part 3A community body will be responsible for preparing the documents necessary to effect the conveyance of the land and for ensuring that the subjects to be conveyed are the same as those specified in the consent given by Ministers. It places an obligation on the Part 3A community body to ensure that in preparing the documents it takes account of all conditions imposed by Ministers.
255. Subsection (2) provides that where the Part 3A community body cannot comply with its duty regarding the property to be conveyed, due to the fact that all or part of the land covered by the consent to the Part 3A community right to buy is not owned by the person named as owner in the application, then it must refer this matter to Ministers.
256. Subsection (3) provides that where such a reference is made to Ministers under subsection (2) then Ministers must direct that the right to buy is extinguished.
257. Subsection (4) requires the owner of the land subject to the Part 3A right to buy to make title deeds and other documents available to and transfer title to the Part 3A community body.
258. Subsection (5) provides that if, within 6 weeks of Ministers consenting to the application to buy the land, the owner refuses or fails to make these deeds available, or if they cannot be found, the Part 3A community body can apply to the Lands Tribunal for an order requiring the production of those documents.
259. Subsection (6) provides that the Part 3A community body may apply to the Lands Tribunal to authorise its clerk to effect the transfer of title where the owner refuses, or for other reasons fails, to do so. Where the clerk to the Tribunal does so the effect will be the same as if it were done by the owner.

Completion of transfer

260. The new section 97R of the 2003 Act sets out the process for completing the transfer.
261. Subsection (1) provides that the consideration payable for the land in respect of which the Part 3A community right to buy is exercised shall be the value of that land as assessed under section 97S by the valuer appointed by Ministers.
262. Subsection (2) provides that, subject to subsections (3) and (4), the consideration should be paid not later than 6 months after the date on which Ministers consented to the right to buy application.
263. Subsection (3) specifies circumstances where either this payment deadline will not apply or where an alternative deadline will apply. In particular, it allows the landowner

and the Part 3A community body to agree an alternative payment date and provides for deferral of payment when the valuation has not been completed or has been subject to an appeal.

264. Subsection (4) specifies that where the owner is unable to grant a good and marketable title to the Part 3A community body by the date of payment, then payment shall be made to and held by the Lands Tribunal pending either completion of the conveyance or notification to the Lands Tribunal by the Part 3A community body that it has decided not to complete the transaction.
265. Subsection (5) specifies that if the consideration is not paid by the Part 3A community body by the due date, the right to buy application will be deemed to have been withdrawn by the Part 3A community body (this subsection does not apply where subsection (4) applies).
266. Subsection (6) provides that when the Part 3A community body records or registers its title, the land acquired is disburdened of any heritable security.
267. Subsection (7) provides that a security that related to the land acquired through the Part 3A community right to buy and to other land continues to apply to that other land.
268. Subsection (8) provides that where land is disburdened of a heritable security on purchase, unless the creditors otherwise agree, the Part 3A community body must pay the creditors under that heritable security whatever sums are due to them.
269. Subsection (9) provides that the Part 3A community body must deduct any sums paid to a heritable creditor under the provisions of subsection (8) from the amount that the body is due to pay the owner for the land. In effect, the landowner will receive a sum for the land which will take account of the sum required to clear any securities.

Assessment of value of land etc.

270. The new section 97S of the 2003 Act sets out the procedure for valuation of the land in respect of which a Part 3A community body is exercising its right to buy.
271. Subsection (1) requires that Ministers, where they have consented to a Part 3A community right to buy application, must appoint a valuer to assess the value of that land within 7 days of that consent.
272. Subsection (2) provides that the validity of anything done under the new section 97S will not be affected by Ministers' failure to comply with the time limit specified in subsection (1).
273. Subsection (3) sets out the role of the valuer.
274. Subsection (4) specifies that the value to be ascertained is the market value at the date Ministers consented to the application to exercise the right to buy.
275. Subsection (5) defines market value as the sum of the open market value if the sale were between a willing seller and willing buyer, compensation for any depreciation in the value of other land and interests belonging to the seller as a result of the forced sale, and compensation for any disturbance to the seller resulting from the forced sale.
276. Subsection (6) specifies that in arriving at the open market value for the purposes of subsection (5)(a), account may be taken of the known existence of a potential purchaser with a special interest in the property (other than the Part 3A community body). It also specifies that no account shall be taken of the fact that no time was allowed for marketing the property or of the depreciation of other land or disturbance (since compensation for these latter two items will be added to the open market value by virtue of subsection (5)(b) and (c)).
277. Subsection (7) states that Ministers shall pay for the valuation under this section.

*These notes relate to the Community Empowerment (Scotland)
Act 2015 (asp 6) which received Royal Assent on 24 July 2015*

278. Subsections (8), (9) and (10) require the valuer to ask both the owner and the Part 3A community body for their views in writing on the value of the land, and invite written counter-representations from each party on the other's views, and to take these representations and counter-representations into account in arriving at the valuation.
279. Subsection (11) specifies that where the Part 3A community body and the owner have agreed the valuation, they must notify the valuer in writing of that valuation.
280. Subsections (12) and (13) require the appointed valuer to notify Ministers, the landowner and the Part 3A community body of the valuation. This must be done within 8 weeks of being appointed or within a longer period set by Ministers, as requested by the valuer.
281. Subsection (14) sets out that the validity of the transfer is not affected by a failure by the valuer to comply with the time limit.

Compensation

282. The new section 97T of the 2003 Act provides for payment of compensation in connection with an application to exercise the Part 3A community right to buy. It provides that the compensation will be payable by the Part 3A community body except where Ministers have refused the application, in which case the compensation due to the owner of the land will be paid by Ministers.
283. Subsection (1) specifies the circumstances in which eligibility for compensation will arise.
284. Subsection (2) provides that the Part 3A community body will not be liable to pay compensation when a Part 3A community right to buy application is made but is not approved by Ministers.
285. Subsection (3) specifies that, in the circumstances covered by subsection (2), compensation for certain losses and expenses can be recovered from Ministers.
286. Subsection (4) provides that Ministers may make an order specifying the amounts payable in respect of loss or expense, who is liable to pay those amounts, and how any compensation is to be claimed under the new section 97T.
287. Subsection (5) provides that if the parties cannot agree whether compensation is payable or the amount of such compensation within the timescale specified in the order, then either party may refer the matter to the Lands Tribunal.
288. Subsections (6) to (9) provide that, when referring a question to the Lands Tribunal, the party referring the question must notify Ministers of the referral within 7 days of making that referral. Subsection (7) requires the Lands Tribunal to send a copy of its findings on the question to Ministers.

Grants towards Part 3A community bodies' liabilities to pay compensation

289. The new section 97U provides that Ministers may, in certain limited circumstances, pay a grant to a Part 3A community body to assist it in meeting the compensation it has to pay in connection with its exercise of a right to buy.
290. Subsection (2) specifies the circumstances in which payment of such a grant would be permitted and subsection (3) makes it clear that Ministers are not bound to pay a grant even when all the circumstances specified arise.
291. Subsection (4) provides that payment of a grant may be subject to conditions including conditions relating to repayment in the event of a breach.
292. Subsection (5) provides that a grant may be paid only if the Part 3A community body applies for it, and subsection (6) provides that the form of the application and the application procedure shall be as Ministers specify in regulations.

293. Subsection (7) provides that Ministers must issue their decision on an application for a grant in writing and, where that decision is to refuse to pay a grant, include the reasons for that refusal. Subsection (8) provides that Ministers' decision on whether to pay a grant or not is final.

Appeals

294. The new section 97V of the 2003 Act sets out the rights of appeal which exist in connection with Part 3A of the 2003 Act.
295. Subsections (1), (4) and (5) provide that the landowner, a person who is a member of the community to which a Part 3A community body relates and a creditor in a standard security with a right to sell land to which an application relates may appeal against the Ministers' decision to consent to the application, while subsection (2) allows the Part 3A community body to appeal against a decision to refuse an application. Where there is more than one Part 3A community body wishing to purchase the land, subsection (3) provides that Ministers' decision on which community body's application will proceed is final and cannot be appealed to the sheriff.
296. Subsection (6) specifies the timeframe within which an appeal may be made.
297. Subsection (7) specifies that the sheriff court with the jurisdiction to hear an appeal is the sheriff court where the land subject to an appeal is located.
298. Subsection (8) specifies who each appellant must inform when an appeal is made.
299. Subsection (9) provides that the sheriff's decision is final and may require rectification of the Register of Community Interests in Abandoned, Neglected or Detrimental Land and may impose conditions on the appellant.

Appeals to Lands Tribunal: valuation

300. The new section 97W of the 2003 Act sets out the rights of appeal to the Lands Tribunal in connection with the valuation which is carried out under the new section 97S.
301. Subsection (1) provides that the owner of the land and the Part 3A community body exercising its right to buy may appeal the valuation to the Lands Tribunal.
302. Subsection (2) requires such an appeal to state the grounds of the appeal and that it be lodged within 21 days of valuation being notified under section 97S(12).
303. Subsection (3) provides that the Lands Tribunal may reassess the valuation of the land.
304. Subsection (4) provides that the valuer may be a witness in the appeal proceedings.
305. Subsection (5) requires the Lands Tribunal to give reasons in writing for its decision on an appeal within 8 weeks of the hearing of that appeal. Subsection (6) provides that, where the Lands Tribunal considers that it is not reasonable to issue a written statement within 8 weeks, it must notify the parties to the appeal of the date by which it will issue its written statement.
306. Subsection (8) provides that the party making an appeal must notify Ministers within 7 days of the appeal and the date on which it was made. Subsection (9) provides that the Lands Tribunal must send a copy of its written statement of reasons on the appeal to Ministers. Subsection (10) states that failure to comply with subsection (8) or (9) has no effect on the Part 3A community body's right to buy the land or the validity of the appeal.
307. Subsection (11) provides that Ministers are not competent parties to any appeal by reason only that they appointed the valuer.
308. Subsection (12) provides that Ministers' powers under the Lands Tribunal Act 1949 to make rules are extended so that Ministers can make any rules necessary or expedient in connection with Part 3A.

Reference to Lands Tribunal of questions on applications

309. The new section 97X sets out rights of appeal to the Lands Tribunal on a question relating to the Part 3A application.
310. Subsection (1) provides that at any time before Ministers make a decision on an application, any question relating to the application may be referred to the Lands Tribunal by Ministers, the landowner, a person who is a member of the community to which the Part 3A community body relates, any person with an interest in the land giving rise to a legally enforceable right (e.g. a creditor in a standard security with the right to sell land) or any other such person invited to send views on a Part 3A application (under section 97G(9)(a)(iv)).
311. Subsection (2) provides that the Lands Tribunal may consider the views of the Part 3A community body, the owner of the land subject to the Part 3A application and any other person that the Lands Tribunal determines have an interest in the case.
312. Subsection (3) provides that the Lands Tribunal must inform Ministers of its findings on any of the questions referred to it and may, by order, provide for Ministers to consent to an application under the new section 97L only if they impose certain conditions, as directed by the Lands Tribunal.
313. Subsection (4) provides that if the Lands Tribunal finds that the question on the application is not relevant to the Ministers' decision, the Lands Tribunal may decide not to consider the question further and find accordingly.
314. Subsection (5) provides that, when referring a question to the Lands Tribunal, the person referring the question must notify Ministers of the referral within 7 days of making that referral.

Agreement as to matters referred or appealed

315. The new section 97Y of the 2003 Act provides that parties to the Part 3A application are not prevented from settling or agreeing on the matter which is subject to an appeal under sections 97V or 97W between them.

Interpretation of Part 3A

316. The new section 97Z sets out some matters of interpretation.
317. Subsection (1) provides that any reference to a creditor in a standard security with a right to sell land is a reference to a creditor who has such rights under section 20(2) or 23(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970, or a warrant granted under section 24(1) of that Act.
318. Subsections (2) and (3) provide that public or local holidays should not be taken into account when calculating time periods in Part 3A, except for the 6 month period of completion for the right to buy, the 28-day period for a right of appeal to the sheriff and the 21-day period for a right of appeal to the Lands Tribunal on the valuation.

Parts 2, 3 and 3A of the Land Reform (Scotland) Act 2003: mediation

319. [Section 75](#) of the Act inserts subsection 97Z1 into the 2003 Act. Subsection 97Z1 provides powers for Ministers, upon a request by certain persons including owners of land and community bodies, to take such steps as they consider appropriate for the purposes of arranging, or facilitating the arrangement of, mediation. Subsection (4) allows Ministers to appoint a mediator, make payments to mediators for services provided, and to reimburse the reasonable expenses of mediators.