



# Community Empowerment (Scotland) Act 2015

2015 asp 6

## PART 4

### COMMUNITY RIGHTS TO BUY LAND

*Modifications of Part 2 of Land Reform (Scotland) Act 2003*

#### **36 Nature of land in which community interest may be registered**

- (1) In section 33 of the 2003 Act (registrable land)—
- (a) in subsection (1)—
    - (i) the words “The land in which” are repealed, and
    - (ii) for the words “(“registrable land”) is” substitute “ in ”,
  - (b) in subsection (2), for the words “described as such in an order made by Ministers”, substitute “ consisting of a separate tenement which is owned separately from the land in respect of which it is exigible (subject to subsection (2A)) ”,
  - (c) after subsection (2), insert—

“(2A) Land consisting of—

    - (a) salmon fishings, or
    - (b) mineral rights (other than rights to oil, coal, gas, gold or silver),

which are owned separately from the land in respect of which they are exigible is not “excluded land” (and so is land in which a community interest may be registered under this Part).”, and
  - (d) subsections (3) to (7) are repealed.
- (2) The title to section 33 of the 2003 Act becomes “ Land in respect of which community interest may be registered ”.

*Changes to legislation: There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015, Cross Heading: Modifications of Part 2 of Land Reform (Scotland) Act 2003. (See end of Document for details)*

### Commencement Information

**II** S. 36 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

## 37 Community bodies

- (1) Section 34 of the 2003 Act (community bodies) is amended as follows.
- (2) Before subsection (1), insert—
- “(A1) A community body is, subject to subsection (4)—
- (a) a body falling within subsection (1), (1A) or (1B), or
- (b) a body of such other description as may be prescribed which complies with prescribed requirements.”.
- (3) In subsection (1)—
- (a) for the words “community body is, subject to subsection (4) below”, substitute “body falls within this subsection if it is”,
- (b) in paragraph (c), for “20”, substitute “10”,
- (c) for paragraph (d), substitute—
- “(d) provision that at least three quarters of the members of the company are members of the community,”,
- (d) in paragraph (f), the words “and the auditing of its accounts” are repealed,
- (e) after paragraph (f), insert—
- “(fa) provision that, on the request of any person for a copy of the minutes of a meeting of the company, the company must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
- (fb) provision that, where a request of the type mentioned in paragraph (fa) is made, the company—
- (i) may withhold information contained in the minutes, and
- (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so,” and
- (f) in paragraph (h)—
- (i) in sub-paragraph (i), for “or crofting community body”, substitute “, crofting community body or Part 3A community body (as defined in section 97D)”, and
- (ii) in sub-paragraph (ii), for “or crofting community body”, substitute “, crofting community body or Part 3A community body (as so defined)”,
- (4) After subsection (1), insert—
- “(1A) A body falls within this subsection if it is a Scottish charitable incorporated organisation (a “SCIO”) the constitution of which includes the following—
- (a) a definition of the community to which the SCIO relates,
- (b) provision enabling the SCIO to exercise the right to buy land under this Part,
- (c) provision that the SCIO must have not fewer than 10 members,

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- (d) provision that at least three quarters of the members of the SCIO are members of the community,
  - (e) provision under which the members of the SCIO who consist of members of the community have control of the SCIO,
  - (f) provision ensuring proper arrangements for the financial management of the SCIO,
  - (g) provision that, on the request of any person for a copy of the minutes of a meeting of the SCIO, the SCIO must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
  - (h) provision that, where a request of the type mentioned in paragraph (g) is made, the SCIO—
    - (i) may withhold information contained in the minutes, and
    - (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and
  - (i) provision that any surplus funds or assets of the SCIO are to be applied for the benefit of the community.
- (1B) A body falls within this subsection if it is a community benefit society the registered rules of which include the following—
- (a) a definition of the community to which the society relates,
  - (b) provision enabling the society to exercise the right to buy land under this Part,
  - (c) provision that the society must have not fewer than 10 members,
  - (d) provision that at least three quarters of the members of the society are members of the community,
  - (e) provision under which the members of the society who consist of members of the community have control of the society,
  - (f) provision ensuring proper arrangements for the financial management of the society,
  - (g) provision that, on the request of any person for a copy of the minutes of a meeting of the society, the society must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
  - (h) provision that, where a request of the type mentioned in paragraph (g) is made, the society—
    - (i) may withhold information contained in the minutes, and
    - (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and
  - (i) provision that any surplus funds or assets of the society are to be applied for the benefit of the community.”.
- (5) In subsection (2), after “(1)(c)”, insert “, (1A)(c) or (1B)(c) ”.
- (6) After subsection (4), insert—
- “(4A) Ministers may by regulations from time to time amend subsections (1), (1A) and (1B).
- (4B) If provision is made under subsection (A1)(b), Ministers may by regulations make such amendment of section 35(A1) and (1) in consequence of that provision as they consider necessary or expedient.”.

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- (7) In subsection (5)—
- (a) the words “Unless Ministers otherwise direct” are repealed,
  - (b) in paragraph (a)—
    - (i) for “subsection (1)(a)”, substitute “ subsections (1)(a), (1A)(a) and (1B)(a) ”, and
    - (ii) at the end, insert “ or a prescribed type of area (or both such unit and type of area) ”,
  - (c) in paragraph (b)(i), at the end, insert “ or in that prescribed type of area ”, and
  - (d) in paragraph (b)(ii), after “units”, insert “ or that prescribed type of area ”.
- (8) In subsection (8)—
- (a) after “section”, insert “ — ”, and
  - (b) at the end, insert—

““community benefit society” means a registered society (within the meaning of section 1 of the Co-operative and Community Benefit Societies Act 2014) registered as a community benefit society under section 2 of that Act,

“registered rules” has the meaning given by section 149 of that Act (as that meaning applies in relation to community benefit societies),

“Scottish charitable incorporated organisation” has the meaning given by section 49 of the Charities and Trustee Investment (Scotland) Act 2005.”.

#### Commencement Information

- I2** S. 37(1)(4)(7)(8) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, Sch.
- I3** S. 37(1)(4)(7)(8) in force at 15.4.2016 in so far as not already in force by S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- I4** S. 37(2)(3)(5)(6) in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

### 38 Modification of memorandum, articles, constitution or registered rules

- (1) Section 35 of the 2003 Act (provisions supplementary to section 34) is amended as follows.
- (2) Before subsection (1), insert—
- “(A1) During the relevant period, a community body may not modify its memorandum, articles of association, constitution or registered rules (as defined in section 34(8)) without Ministers' consent in writing.
- (A2) In subsection (A1), “relevant period” means the period—
- (a) beginning on the day on which the community body submits an application under section 37(1) for registration of a community interest in land, and
  - (b) ending with—
    - (i) registration of the community interest in land,

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- (ii) a decision by Ministers that the community interest in land should not be registered,
  - (iii) Ministers declining, by virtue of section 39(5), to consider the application, or
  - (iv) withdrawal of the application.”.
- (3) In subsection (1), for “or articles of association”, substitute “, articles of association, constitution or registered rules (as defined in section 34(8))”.
- (4) After subsection (3), insert—
- “(4) Where the power conferred by subsection (3) is (or is to be) exercised in relation to land, Ministers may make an order relating to, or to matters connected with, the acquisition of the land.
- (5) An order under subsection (4) may—
- (a) apply, modify or exclude any enactment which relates to any matter as to which an order could be made under that subsection,
  - (b) make such modifications of enactments as appear to Ministers to be necessary or expedient in consequence of any provision of the order or otherwise in connection with the order.”.

#### Commencement Information

**I5** S. 38 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

### 39 Register of Community Interests in Land

- (1) Section 36 of the 2003 Act (Register of Community Interests in Land) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a)—
    - (i) at the beginning, insert “ where the community body which has registered the interest is constituted by a company limited by guarantee, ”, and
    - (ii) the words from “which” to the end of the paragraph are repealed, and
  - (b) after paragraph (a), insert—
    - “(aa) where the community body which has registered the interest is constituted by a Scottish charitable incorporated organisation within the meaning given in section 34(8) (a “SCIO”), the name and address of the principal office of the SCIO,
    - (ab) where the community body which has registered the interest is constituted by a community benefit society as defined in section 34(8), the name and address of the registered office of the society,”.
- (3) After subsection (5), insert—
- “(5A) Subsection (5B) applies where—
- (a) a community body changes its name,

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- (b) a community body which is constituted by a company limited by guarantee or by a community benefit society changes the address of its registered office, or
- (c) a community body which is constituted by a SCIO changes the address of its principal office.

(5B) The community body must, as soon as reasonably practicable after the change is made, notify the Keeper of the change.”

#### Commencement Information

**I6** S. 39 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

### 40 Public notice of certain applications

In section 37 of the 2003 Act (registration of interest in land)—

- (a) in subsection (4)(b), at the beginning, insert “ (except in the case of a proposed application of the type mentioned in subsection (4B)) ”, and
- (b) after subsection (4), insert—

“(4A) Ministers are not to be satisfied under subsection (3) in relation to a proposed application of the type mentioned in subsection (4B) unless the applicant community body has given public notice of the proposed application by advertising it in such manner as may be prescribed.

(4B) The type of proposed application is one to register a community interest in land consisting of salmon fishings, or mineral rights, which are owned separately from the land in respect of which they are exigible.”

#### Commencement Information

**I7** S. 40 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, Sch.

**I8** S. 40 in force at 15.4.2016 in so far as not already in force by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

### 41 Criteria for registration of interest in land

In section 38 of the 2003 Act (criteria for registration)—

- (a) in subsection (1)(b)—
  - (i) after “that”, where it first occurs, insert “ the acquisition of the land by the community body to which the application relates is compatible with furthering the achievement of sustainable development, and that ”,
  - (ii) in sub-paragraph (i), the words “defined under section 34(1)(a) above” are repealed,
  - (iii) the word “or” immediately following sub-paragraph (i) is repealed,
  - (iv) in sub-paragraph (ii), for “that”, where it first occurs, substitute “ the ”,
  - (v) in that sub-paragraph, the words from “and” to the end of the sub-paragraph are repealed, and
  - (vi) after that sub-paragraph, insert—

“(iii) where the community body is a body mentioned in section 34(A1)(a), the land

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- is in or sufficiently near to the area of the community by reference to which the community is defined as mentioned in section 34(5)(a), or
- (iv) where the community body is a body mentioned in section 34(A1)(b), the land is in or sufficiently near to the area of the community to which the body relates,”
- (b) in subsection (2), at the beginning, insert “ Subject to subsection (2A) below, ”,
- (c) after that subsection, insert—
- “(2A) Ministers may not take into account, for the purposes of subsection (2), the approval of a member of the community if the approval was indicated earlier than 6 months before the date on which the application to register the community interest in land to which the approval relates was made.
- (2B) Ministers may by regulations amend subsection (2A) so as to substitute for the period of time for the time being specified there a different period of time (not being less than 6 months).”, and
- (d) in subsection (3), for “above”, substitute “ , (1A)(a) or (1B)(a), or where that body is a body mentioned in section 34(A1)(b), the community to which that body relates ”.

#### Commencement Information

**I9** S. 41 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

## 42 Procedure for late applications

(1) Section 39 of the 2003 Act (procedure for late applications) is amended as follows.

(2) For subsection (1), substitute—

“(1) This section (other than subsections (4A) and (5)) applies in relation to an application to register a community interest in land which satisfies—

- (a) the conditions mentioned in subsection (1A), or  
(b) the condition mentioned in subsection (1B).

(1A) The conditions are that—

- (a) before the date on which the application is received by Ministers, the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has taken action which, if a community interest had been registered, would be prohibited under section 40(1), and  
(b) on the date on which the application is received by Ministers—  
(i) missives for the sale and purchase of the land in pursuance of that action have not been concluded, or  
(ii) an option to acquire the land in pursuance of that action has not been conferred.

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- (1B) The condition is that, where another community body has registered an interest in the land, the application is received by Ministers—
- (a) after the date on which the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has, under section 48(1), notified that community body that a transfer is proposed, and
  - (b) before Ministers have consented, under section 51(1), to a transfer to that community body.”.
- (3) In subsection (2)—
- (a) after paragraph (a), insert—
    - “(aa) Ministers may, before the end of the period of 7 days following receipt of the views of the owner of the land or, as the case may be, such a creditor under that section, request—
      - (i) the owner, such a creditor or the community body making the application to provide such further information as they consider necessary in connection with their being informed as mentioned in paragraph (a), and
      - (ii) that the further information be supplied within 14 days of the request,” and
  - (b) in paragraph (b)(ii), after “30”, insert “ or (in a case where further information is requested under paragraph (aa)) “44” ”.
- (4) In subsection (3), for paragraph (a), substitute—
- “(a) that—
    - (i) such relevant work as Ministers consider reasonable was carried out by a person, or
    - (ii) such relevant steps as Ministers consider reasonable were taken by a person,
  - (aa) that the relevant work was carried out or the relevant steps were taken—
    - (i) at a time which, in the opinion of Ministers, was sufficiently in advance of the owner of the land or, as the case may be, the creditor taking the action such as is mentioned in subsection (1A), or giving notice such as is mentioned in subsection (1B),
    - (ii) in respect of land with a view to the land being used for purposes that are the same as those proposed for the land in relation to which the application relates, and
    - (iii) by the community body making the application or by another person with a view to the application being made by the community body,
  - (ab) that—
    - (i) in the period of 12 months before the application is received by Ministers, the owner of the land or, as the case may be, the creditor taking the action such as is mentioned in subsection (1A) did not make an offer to sell the land to the community body or a similar community body, or



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(ii) in that 12 month period, the owner of the land or, as the case may be, the creditor did make an offer to sell the land to the community body or a similar community body and, in the opinion of Ministers, there are good reasons why the body did not purchase the land.”.

(5) After subsection (3), insert—

“(3A) Despite subsection (3), Ministers may decide that a community interest is to be entered in the Register even though the conditions in paragraphs (a) and (aa) of that subsection are not satisfied in relation to the interest, if Ministers are satisfied that there are good reasons—

- (a) why the conditions are not satisfied, and
- (b) for allowing the interest to be entered in the Register.

(3B) Ministers may, before the end of the period of 7 days following receipt under section 37(5) of the views of the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land, request—

- (a) any person they believe may be able to provide them with such further information as they consider necessary in connection with the matters mentioned in subsection (3) to provide the information, and
- (b) that the information be supplied within 14 days of the request.”.

(6) In subsection (4)(c), after “59(1)”, insert “, 60A(1) ”.

(7) After subsection (4), insert—

“(4A) Subsection (5) applies in relation to an application to register a community interest in land where the application is received by Ministers after the following have occurred—

- (a) the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has taken action which, if a community interest in land had been registered, would be prohibited under section 40(1), and
- (b) either—
  - (i) missives for the sale and purchase of the land are concluded,  
or
  - (ii) an option to acquire the land is conferred.”.

(8) In subsection (5), the words from “Where” to “land” are repealed.

(9) After subsection (5), insert—

“(6) In subsection (3)—

“relevant work” means anything done by way of preparation of an application to register a community interest in land,

“relevant steps” means any steps towards securing ownership of land by a community body.

(7) In subsection (3)(ab)—

- (a) references to “the land” include land that is, in the opinion of Ministers, mainly the same as the land to which the application mentioned in that subsection relates,

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- (b) references to “an offer” are references to an offer in writing (or that is confirmed in writing),
- (c) a community body is, for the purposes of that subsection, similar to another community body if, in the opinion of Ministers, it is similar to the other body to a significant degree having regard to such matters as may be prescribed.

(8) In subsection (6), “land” means any land whether or not it is land in respect of which an application in relation to which this section applies is made.”.

#### Commencement Information

- I10** S. 42(1)(2)(4)(9) in force at 13.11.2015 for specified purposes by [S.S.I. 2015/358](#), [art. 2](#), [Sch.](#)
- I11** S. 42(1)(2)(4)(9) in force at 15.4.2016 in so far as not already in force by [S.S.I. 2015/399](#), [art. 2](#), [Sch.](#) (with [art. 3](#))
- I12** S. 42(3)(5)-(8) in force at 15.4.2016 by [S.S.I. 2015/399](#), [art. 2](#), [Sch.](#) (with [art. 3](#))

### 43 Evidence and notification of concluded missives or option agreements

After section 39 of the 2003 Act, insert—

#### “39A Evidence and notification of concluded missives or option agreements

- (1) Subsection (2) applies where—
  - (a) an application to register a community interest in land is made,
  - (b) on the date on which the application is received by Ministers—
    - (i) missives for the sale and purchase of the land have been concluded, or
    - (ii) an agreement conferring an option to acquire the land exists, and
  - (c) the application does not disclose that such missives have been concluded or such an agreement exists.
- (2) The owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land must, within 21 days of receiving a copy of the application under section 37(5)(a)—
  - (a) provide Ministers with evidence of the concluded missives or (as the case may be) the agreement,
  - (b) where there is an agreement such as is mentioned in subsection (1)(b)
    - (i) which contains a date on which it will expire—
      - (i) notify Ministers of that date, and
      - (ii) provide Ministers with information about whether, and if so how, the agreement is capable of being extended.
- (3) Subsection (4) applies where—
  - (a) an application to register a community interest in land is made,
  - (b) on the date on which the application is received by Ministers—
    - (i) missives for the sale and purchase of the land have been concluded, or

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- (ii) an agreement conferring an option to acquire the land exists,
  - (c) the application discloses that such missives have been concluded or such an agreement exists, and
  - (d) accordingly, by virtue of section 39(4A) and (5), no copy of the application is sent to the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land.
- (4) Ministers must—
- (a) send a copy of the application and the accompanying information to the owner of the land or, as the case may be, the creditor,
  - (b) notify the owner of the land or, as the case may be, the creditor that Ministers must decline to consider the application by virtue of section 39(5), and
  - (c) require the owner of the land or, as the case may be, the creditor to provide Ministers with the information mentioned in subsection (5) within 21 days of receipt of the copy of the application sent under paragraph (a).
- (5) The information is—
- (a) evidence of the concluded missives or, as the case may be, the agreement, and
  - (b) where there is an agreement such as is mentioned in subsection (3)(b)
    - (i) which contains a date on which it will expire—
      - (i) that date, and
      - (ii) information about whether, and if so how, the agreement is capable of being extended.”.

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**Commencement Information**

**I13** S. 43 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

#### 44 Notification of transfer

In section 41 of the 2003 Act (provisions supplementary to and explanatory of section 40), after subsection (2), insert—

- “(3) Where an owner of land or a creditor in a standard security having a right to sell land makes a transfer of land as mentioned in any of paragraphs (a) to (h) of subsection (4) of section 40, the owner of the land or, as the case may be, the creditor must within 28 days of the transfer—
- (a) notify Ministers of—
    - (i) the transfer,
    - (ii) the name and address of the person to whom the land was transferred, and
    - (iii) the date of the transfer, and
  - (b) provide Ministers with a description of the land transferred, including maps, plans or other drawings prepared to such specifications as may be prescribed.”.

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#### Commencement Information

- I14** S. 44 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, Sch.  
**I15** S. 44 in force at 15.4.2016 in so far as not already in force by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

### 45 Notice of expiry of registration

In section 44 of the 2003 Act (duration and renewal of registration), after subsection (5), insert—

“(6) The Scottish Ministers must send written notice to a community body which has a registered community interest of the date on which that interest will cease to have effect unless it is re-registered (“the expiry date”).

(7) A notice under subsection (6) must be sent in the period beginning on the day which falls 12 months before the expiry date and ending 28 days after that day.”.

#### Commencement Information

- I16** S. 45 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

### 46 Changes to information relating to registered interests

After section 44 of the 2003 Act, insert—

#### “44A Duty to notify changes to information relating to registered interest

- (1) This section applies where a community interest in land is registered in pursuance of an application under section 37.
- (2) Where—
- (a) the application contains information enabling Ministers to contact the community body which made the application, and
  - (b) there is a change in that information,
- the community body must, as soon as reasonably practicable after the change, notify Ministers of the change.
- (3) Where—
- (a) the application contains information enabling Ministers to contact the owner of the land to which the application relates, and
  - (b) there is a change in that information,
- the owner must, as soon as reasonably practicable after the change, notify Ministers of the change.
- (4) Where—
- (a) the application contains information relating to a creditor in a standard security over an interest in the land, and
  - (b) there is a change in that information,
- the owner of the land to which the application relates must, as soon as reasonably practicable after the change, notify Ministers of the change.

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- (5) Subsection (6) applies where—
  - (a) there is a creditor in a standard security over an interest in the land to which the application relates, but
  - (b) the application does not disclose the existence of the creditor (whether because the standard security did not exist at the time the application was made or otherwise).
- (6) The owner of the land to which the application relates must, as soon as reasonably practicable after the interest in land is registered—
  - (a) notify Ministers of the existence of the creditor, and
  - (b) provide Ministers with such information relating to the creditor as would enable Ministers to contact the creditor.
- (7) Subsection (8) applies where there is a change in information provided by a community body or an owner of land in pursuance of the duty under subsection (2), (3), (4) or (6).
- (8) The community body or, as the case may be, the owner of the land must as soon as reasonably practicable after the change notify Ministers of the change.”.

#### Commencement Information

**I17** S. 46 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

#### 47 Notification under section 50 of 2003 Act

In section 50 of the 2003 Act (power to activate right to buy land where breach of Part 2)—

- (a) in subsection (3)(b), after “land”, insert “, to any creditor in a standard security with a right to sell the land”, and
- (b) after subsection (5), insert—

“(6) For the purposes of subsection (2)(c), the circumstances in which a community interest in land remains in effect include that—

- (a) the community body that applied under subsection (1) has, in accordance with subsection (2) of section 44, applied to re-register the interest, and
- (b) the Keeper has, by virtue of a direction under subsection (3) of that section, re-entered the interest in the Register.”.

#### Commencement Information

**I18** S. 47 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

#### 48 Approval of members of community to buy land

In section 51 of the 2003 Act (exercise of right to buy: approval of community and consent of Ministers), in subsection (2)(a)—

- (a) in sub-paragraph (i)—
  - (i) for the words “at least half”, substitute “ the proportion ”,

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- (ii) after “above,”, insert “ who ”, and
- (iii) after “land”, insert “ is, in the circumstances, sufficient to justify the community body's proceeding to buy the land; ”,
- (b) the word “; or” immediately following sub-paragraph (i) is repealed, and
- (c) sub-paragraph (ii) is repealed.

#### Commencement Information

**I19** S. 48 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

#### 49 Appointment of person to conduct ballot on proposal to buy land

After section 51 of the 2003 Act, insert—

##### “51A Ballots under section 51: appointment of balloter, etc.

- (1) The ballot is to be conducted by a person (the “balloter”) appointed by Ministers who appears to them to be independent and to have knowledge and experience of conducting ballots.
- (2) Ministers must, within the period mentioned in subsection (3), provide the balloter with—
  - (a) a copy of the application made by the community body under section 37 to register an interest in the land in relation to which the body has confirmed it will exercise the right to buy, and
  - (b) such other information as may be prescribed.
- (3) The period is the period of 28 days beginning with the date on which a valuer is appointed under section 59(1) in respect of the land in relation to which the community body has confirmed it will exercise the right to buy.
- (4) Ministers must provide the community body with such details of the balloter as will enable the community body to contact the balloter.
- (5) The community body must, before the end of the period of 7 days following receipt of notification under section 60(2) of the valuation of the land, provide the balloter with wording for the proposition mentioned in section 51(2)(b); and the balloter must conduct the ballot on the basis of such wording.
- (6) At the same time as providing that wording, the community body must also provide the balloter, in such form as may be prescribed, with such information as may be prescribed relating to—
  - (a) the community body,
  - (b) its proposals for use of the land in relation to which it has confirmed it will exercise its right to buy,
  - (c) the valuation, and
  - (d) any other matters.
- (7) The expense of conducting the ballot is to be met by Ministers.”

**Changes to legislation:** There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015, Cross Heading: Modifications of Part 2 of Land Reform (Scotland) Act 2003. (See end of Document for details)

#### Commencement Information

- I20** S. 49 in force at 13.11.2015 for specified purposes by [S.S.I. 2015/358](#), [art. 2](#), [Sch.](#)  
**I21** S. 49 in force at 15.4.2016 in so far as not already in force by [S.S.I. 2015/399](#), [art. 2](#), [Sch.](#) (with [art. 3](#))

### 50 Consent under section 51 of 2003 Act: prescribed information

After section 51A of the 2003 Act (inserted by section 49), insert—

#### “51B Consent under section 51: duty to provide information

- (1) For the purposes of deciding whether they are satisfied as mentioned in section 51(3) in relation to a community body, Ministers must take into account—
  - (a) the information mentioned in subsection (2), and
  - (b) any other information they consider relevant.
- (2) The information referred to in subsection (1)(a) is information—
  - (a) provided by the community body, and
  - (b) that is of such a kind as may be prescribed.
- (3) Information mentioned in subsection (2) must be provided in the prescribed form.
- (4) Information that may be prescribed under subsection (2)(b) includes, in particular—
  - (a) information relating to the matters mentioned in section 51(3), and
  - (b) additional information relating to such information.
- (5) Ministers may, no later than 7 days after receiving the information mentioned in subsection (2), request the community body to provide such further information as they consider necessary.
- (6) The community body must, no later than 14 days after receiving any such request, provide Ministers with the further information requested.”

#### Commencement Information

- I22** S. 50 in force at 13.11.2015 for specified purposes by [S.S.I. 2015/358](#), [art. 2](#), [Sch.](#)  
**I23** S. 50 in force at 15.4.2016 in so far as not already in force by [S.S.I. 2015/399](#), [art. 2](#), [Sch.](#) (with [art. 3](#))

### 51 Representations etc. regarding circumstances affecting ballot result

(1) After section 51B of the 2003 Act (inserted by section 50), insert—

#### “51C Circumstances affecting result of ballot

- (1) Within 14 days of receipt by the community body of notification under section 52(3) of the result of the ballot, the body may make representations to Ministers in writing about any circumstances that the body considers have affected the result of the ballot.

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- (2) Where the community body makes such representations it must, when making them—
    - (a) provide Ministers with such evidence as is reasonably necessary to establish the existence and effect of the circumstances to which the representations relate, and
    - (b) send a copy of the representations and the evidence to the owner of the land to which the ballot relates.
  - (3) Within 7 days of receipt of any representations under subsection (1), Ministers may request the community body to provide such further information relating to the representations or related evidence as they think fit.
  - (4) Within 7 days of receiving such a request, the community body must respond to it.
  - (5) Within 7 days of receipt of a copy of the representations and evidence under subsection (2)(b), the owner of the land may provide Ministers with comments on the representations and evidence.
  - (6) Where the owner of the land provides comments under subsection (5) the owner must, when providing them, send a copy of the comments to the community body.
  - (7) Within 7 days of receipt of a copy of comments under subsection (6), the community body may give Ministers views on the comments.
  - (8) Within 7 days of receipt of any views under subsection (7), Ministers may request the community body to provide such further information relating to the views as they think fit.
  - (9) Within 7 days of receiving such a request, the community body must respond to it.
  - (10) In deciding whether they are satisfied as mentioned in section 51(2)(a), Ministers must take account of any—
    - (a) representations made under subsection (1),
    - (b) evidence provided under subsection (2)(a),
    - (c) further information provided under subsection (4) or (9),
    - (d) comments under subsection (5), and
    - (e) views under subsection (7).”.
- (2) In section 51 of the 2003 Act (exercise of right to buy: approval of community and consent of Ministers), after subsection (6), insert—
- “(6A) Where a community body makes representations under section 51C(1), the references to 21 days in paragraphs (a) and (b) of subsection (6) are to be read as references to 35 days.”.

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**Commencement Information**

**I24** S. 51 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)



**Changes to legislation:** There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015, Cross Heading: Modifications of Part 2 of Land Reform (Scotland) Act 2003. (See end of Document for details)

## 52 Ballot not conducted as prescribed

In section 52 of the 2003 Act (ballot procedure), after subsection (6) (inserted by schedule 4), insert—

- “(7) Provision may be prescribed for or in connection with—
- (a) reviewing whether a ballot was conducted in accordance with provision prescribed under subsection (1),
  - (b) providing notification to such persons, or description of persons, as may be prescribed that a ballot has not been so conducted,
  - (c) in a case where a ballot has not been so conducted, requiring a further ballot to be conducted on such a basis, and by such persons or description of persons, as may be prescribed,
  - (d) requiring any such further ballot to be conducted—
    - (i) in compliance with such conditions as may be prescribed (including conditions that the ballot be conducted in accordance with provision prescribed under subsection (1)),
    - (ii) within such timescales as may be prescribed,
  - (e) specifying persons, or descriptions of persons, who are to meet the expenses of conducting any such further ballot,
  - (f) specifying that any review mentioned in paragraph (a) be carried out by—
    - (i) such persons,
    - (ii) such description of persons, or
    - (iii) such a court or tribunal,as may be prescribed,
  - (g) specifying the action that may be taken by such persons, persons of such description or such a court or tribunal following such a review.”.

### Commencement Information

**I25** S. 52 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, Sch.

**I26** S. 52 in force at 15.4.2016 in so far as not already in force by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

## 53 Period in which ballot results and valuations are to be notified

- (1) In section 52 of the 2003 Act (ballot procedure), in subsection (4), for the words from “28 days” to the end of the subsection, substitute “12 weeks beginning with—
- (a) the date on which a valuer is appointed under section 59(1) in respect of the land in relation to which the community body has confirmed it will exercise its right to buy, or
  - (b) where—
    - (i) the balloter receives notification under subsection (3C) of section 60, and
    - (ii) the date notified under paragraph (c) of that subsection is after the end of the 12 week period beginning with the date on which a valuer is appointed as mentioned in paragraph (a) above,

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the day following the date notified to the balloter under paragraph (c) of that subsection.”.

(2) In section 60 of the 2003 Act (procedure for valuation), after subsection (3), insert—

“(3A) An application under subsection (3) must be made within the period of 21 days beginning with the date of appointment of the valuer.

(3B) Any longer period as mentioned in that subsection must be fixed under that subsection within the period of 7 days beginning with the day on which the application was received.

(3C) Where such a longer period is fixed, Ministers must notify the persons mentioned in subsection (3D) of—

- (a) the fact that a longer period has been so fixed,
- (b) the length of the period, and
- (c) the date on which the period ends.

(3D) The persons are—

- (a) the community body which is exercising its right to buy the land,
- (b) the person appointed to conduct the ballot in relation to the land, and
- (c) the owner of the land.”.

#### Commencement Information

I27 S. 53 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

#### 54 Exercise of right to buy: date of entry and payment of price

In section 56 of the 2003 Act (procedure for buying)—

- (a) in subsection (3)(a), for the word “6”, substitute “ 8 ”, and
- (b) after subsection (6), insert—

“(7) Where a later date is agreed as mentioned in subsection (3)(c), the community body must, within 7 days of the agreement—

- (a) notify Ministers in writing of the agreement,
- (b) inform Ministers—
  - (i) of the date on which the agreement was made, and
  - (ii) what the later date is, and
- (c) provide evidence to Ministers of the matters mentioned in paragraph (b).”.

#### Commencement Information

I28 S. 54 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

#### 55 Notification of application under section 57 of the 2003 Act

In section 57 of the 2003 Act (powers of Lands Tribunal in event of failure or delay), after subsection (5), insert—

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- “(6) Where an application under subsection (1) is made by the owner of the land or the community body, the owner or, as the case may be, the community body must, within 7 days of the date on which the application is made, notify Ministers in writing of—
- (a) the making of the application, and
  - (b) the date of making the application.
- (7) Failure to comply with the requirement in subsection (2) to send a copy of the order made under that subsection, or with subsection (6), has no effect on—
- (a) the community body's right to buy the land, or
  - (b) the validity of the application under subsection (1).”.

**Commencement Information**

**I29** S. 55 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

**56 Valuation: views on representations and time limit**

In section 60 of the 2003 Act (procedure for valuation)—

- (a) after subsection (1), insert—
  - “(1A) Where written representations under subsection (1) are received—
  - (a) from the owner of the land, the valuer must invite the community body which is exercising its right to buy the land to send its views on the representations in writing,
  - (b) from the community body which is exercising its right to buy the land, the valuer must invite the owner of the land to send the owner's views on the representations in writing.
- (1B) In carrying out a valuation under section 59, the valuer must consider any views sent under subsection (1A).”, and
- (b) in subsection (3), for the word “6”, substitute “ 8 ”.

**Commencement Information**

**I30** S. 56 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

**57 Expenses of valuation of land**

After section 60 of the 2003 Act, insert—

**“60A Liability of owner of land for valuation expenses**

- (1) Subsection (2) applies where—
  - (a) Ministers have received a confirmation sought by them under section 49(2)(a) that a community body will exercise its right to buy land in which it has a registered interest, and
  - (b) after Ministers have appointed a valuer under section 59(1) to assess the value of the land, the owner of the land gives notice under section 54(5)

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of the owner's decision not to proceed further with the proposed transfer.

- (2) Ministers may require the owner of the land to pay any expense incurred by them in connection with the valuation of the land under section 59 by sending the owner a demand for payment of the expense.
- (3) Where Ministers are considering sending a demand under subsection (2), they may request the owner of the land to provide such information as they consider necessary for the purposes of enabling Ministers to determine whether or not to send the demand.
- (4) The owner of the land may, within 21 days of the receipt of a demand under subsection (2), appeal to the sheriff against the demand.
- (5) The decision of the sheriff in an appeal under subsection (4) is final.
- (6) The owner of the land must pay the amount specified in a demand under subsection (2)—
  - (a) within 28 days of receipt, or
  - (b) where an appeal against the demand is made under subsection (4) and not upheld, within 28 days of the determination of the appeal.”.

#### Commencement Information

**I31** S. 57 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

## 58 Creditors in standard security with right to sell land: appeals

In section 61 of the 2003 Act (appeals)—

- (a) after subsection (3), insert—
 

“(3A) A creditor in a standard security with a right to sell land may appeal to the sheriff against—

  - (a) a decision by Ministers that a community interest in the land is to be entered in the Register, or
  - (b) a decision by Ministers to give consent to the exercise by a community body of its right to buy the land.”,
- (b) in subsection (4), for the words “or (3)”, substitute “, (3) or (3A) ”, and
- (c) in subsection (6)—
  - (i) the word “and” immediately following paragraph (a)(i) is repealed,
  - (ii) in paragraph (a), after sub-paragraph (ii), insert “and
    - (iii) any creditor in a standard security with a right to sell the land to which the appeal relates;”,
  - (iii) the word “and” immediately following paragraph (b)(i) is repealed,
  - (iv) for the word “or” immediately following paragraph (b)(ii), substitute “and
    - (iii) any creditor in a standard security with a right to sell the land to which the appeal relates;”,
  - (v) the word “and” immediately following paragraph (c)(ii) is repealed,
  - (vi) in paragraph (c), after sub-paragraph (iii), insert “and

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- (iv) any creditor in a standard security with a right to sell the land to which the appeal relates;”, and
- (vii) after paragraph (c), insert “or
- (d) under subsection (3A) above, the creditor must intimate that fact to—
  - (i) the community body,
  - (ii) the owner, and
  - (iii) Ministers.”.

#### Commencement Information

**I32** S. 58 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

### 59 Appeals to Lands Tribunal as respects valuations of land

- (1) Section 62 of the 2003 Act (appeals to Lands Tribunal: valuations) is amended as follows.
- (2) In subsection (7), after “reasons”, where it second occurs, insert “—
  - (a) within 8 weeks of hearing the appeal, or
  - (b) where subsection (7A) applies, by such later date referred to in paragraph (b)(ii) of that subsection.”.
- (3) After section (7), insert—

“(7A) This section applies where—

  - (a) the Lands Tribunal considers that it is not reasonable to issue a written statement mentioned in subsection (7) by the time limit specified in paragraph (a) of that subsection, and
  - (b) before the expiry of that time limit, the Lands Tribunal has notified the parties to the appeal—
    - (i) that the Tribunal is unable to issue a written statement by that time limit, and
    - (ii) of the date by which the Tribunal will issue such a written statement.”.
- (4) In subsection (8), for the words from “to” to the end of the subsection, substitute “—
  - (a) to comply with the time limit specified in paragraph (a) of subsection (7) above, or
  - (b) to issue a written statement by the date referred to in paragraph (b) of that subsection.”.
- (5) After subsection (8), insert—

“(8A) Where the owner of the land or the community body appeals under this section, the owner or, as the case may be, the community body must, within 7 days of the date on which the appeal is made, notify Ministers in writing of—

  - (a) the making of the appeal, and
  - (b) the date of the making of the appeal.

*Changes to legislation: There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015, Cross Heading: Modifications of Part 2 of Land Reform (Scotland) Act 2003. (See end of Document for details)*

(8B) The Lands Tribunal must send a copy of the written statement of reasons issued under subsection (7) to Ministers.

(8C) Failure to comply with subsection (8A) or (8B) has no effect on—

- (a) the community body's right to buy the land, or
- (b) the validity of the appeal.”.

**Commencement Information**

**I33** S. 59 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

**60 Calculation of time periods in Part 2 of 2003 Act**

After section 67 of the 2003 Act, insert—

**“67A Calculation of time periods**

- (1) In calculating for the purposes of this Part any period of time within which an act requires to be or may be done, no account is to be taken of any public or local holidays in the place where the act is to be done.
- (2) Subsection (1) does not apply to a period of time specified in—
  - (a) section 56(3)(a) or (b),
  - (b) section 60(3), or
  - (c) Chapter 6 of this Part.”.

**Commencement Information**

**I34** S. 60 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

**61 Duty to provide information about community right to buy**

After section 67A of the 2003 Act (inserted by section 60), insert—

**“67B Duty to provide information about community right to buy**

- (1) Ministers may, for the purpose of monitoring or evaluating any impact that the right to buy land conferred by this Part has had or may have, request a person mentioned in subsection (2) to provide them with the information mentioned in subsection (3).
- (2) The persons are—
  - (a) a community body,
  - (b) the owner or former owner of land in respect of which an application to register a community interest under section 37 was made.
- (3) The information is such information as Ministers may reasonably require for the purpose mentioned in subsection (1) relating to the effects that the operation of the provisions of this Part have had, or may be expected to have, on such matters as may be specified in the request.

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**Changes to legislation:** There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015, Cross Heading: Modifications of Part 2 of Land Reform (Scotland) Act 2003. (See end of Document for details)

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- (4) A person to whom a request under subsection (1) is made must, to the extent that the person is able to do so, provide Ministers with the information requested.”. Modifications of Part 3 of Land Reform (Scotland) Act 2003”.

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**Commencement Information**

**I35** S. 61 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

**Changes to legislation:**

There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015, Cross Heading: Modifications of Part 2 of Land Reform (Scotland) Act 2003.