

LAND REFORM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – the Scottish Land Commission

Chapter 2 – the Land Commissioners

Functions of the Land Commissioners

Section 22 – Functions of the Land Commissioners

48. Subsection (1) sets out the functions of the Land Commissioners, which generally concern matters relating to land in Scotland.
49. Subsection (2) imposes a duty upon the Land Commissioners to consider any matter referred to them by the Scottish Ministers.
50. Subsection (3)(a) lists a number of matters that the Land Commissioners must have regard to when exercising their functions, including the land rights and responsibilities statement to be published by the Scottish Ministers under section 1 or revised under section 2. Subsection (3)(b) provides that the Land Commissioners must work with the Tenant Farming Commissioner in exercising their functions.
51. Subsection (4) provides that the Land Commissioners must have regard to the exercise of the Tenant Farming Commissioner’s functions under section 24 when the Land Commissioners exercise their functions in relation to agriculture and agricultural holdings.
52. Subsection (5) defines “matters in relation to land in Scotland” for the purposes of subsection (1). Subparagraphs (a) to (c) state that this definition includes ownership and other rights in land, management of land, and use of land. Subparagraph (d) ensures that the Land Commissioners, when exercising their functions, can take in to consideration the land use strategy prepared under section 57(1) of the Climate Change (Scotland) Act 2009 (“the 2009 Act”), Subparagraph (d) does not affect Scottish Ministers’ obligations under section 57 of the 2009 Act, nor does it allow the Land Commissioners to produce a new or revised Land Use Strategy themselves to supersede that produced by Scottish Ministers under that Act.

Land Commissioners: delegation of functions

Section 23 – Land Commissioners: delegation of functions

53. Subsection (1) allows the Land Commissioners to delegate their functions to a committee established by the Commission under section 17, any employee of the Commission or any other person. The Land Commissioners cannot delegate their functions to the Tenant Farming Commissioner. Subsection (2) makes it clear that any delegation under subsection (1) does not affect the responsibility of the Land Commissioners for the exercise of the functions delegated.