

LAND REFORM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Right to Buy Land to Further Sustainable Development

Applications for consent

Section 54 – Right to buy: application for consent

234. *Section 54* sets out the process a Part 5 community body must undertake in submitting an application to exercise the right to buy.
235. Subsection (1) specifies that the right can be exercised by a Part 5 community body or by a third party purchaser which is nominated by the Part 5 community body in its application.
236. Subsection (2) specifies that the right to buy can only be exercised with Ministers' consent on the written application of the Part 5 community body.
237. Subsection (3) provides that a right to buy land can be exercised in relation to more than one holding of land or more than one tenancy, but separate applications must have been made for each holding of land or tenancy. Subsection (4) defines "holding" of land and "tenancy". Ministers may make different decisions in relation to each separate application.
238. Subsection (5) specifies that an application must set out who the owner of the land is and, where the application is for a tenant's interest in land, who the tenant is, and identify any creditor in a standard security with a right to sell the land or any part of it. Ministers may 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.
239. Subsection (6) lists the matters which the information to be included in or to accompany the application made by the Part 5 community body is to be about. These include the reasons why the Part 5 community body considers that its proposals for the land satisfy the sustainable development conditions set out in section 56(2), (or, where the application is to buy a tenant's interest, those conditions as modified by section 56(5) (a)) the location and boundaries of the land, all rights and interests in the land known to the Part 5 community body and the proposed use, development and management of the land.
240. Subsection (7)(a) specifies that at the same time as the Part 5 community body applies to Ministers, it must send a copy of its application form (including the associated material) to the owner of the land.
241. Subsection (7)(b) specifies that where the application is for a tenant's interest, the Part 5 community body must send a copy of its application form (including the accompanying material) to the tenant.

*These notes relate to the Land Reform (Scotland) Act 2016
(asp 18) which received Royal Assent on 22 April 2016*

242. Subsection (7)(c) specifies that, where the Part 5 community body nominates a third party purchaser, at the same time as the Part 5 community body applies to Ministers, it must send a copy of its application form (including the accompanying information) to the third party purchaser.
243. Subsections (7)(d) and (8) require the Part 5 community body to send a copy of the application to any known creditor in a standard security over the land and invite the creditor to notify, within 60 days, the Part 5 community body and Ministers of circumstances in which a calling-up notice has been served by the creditor, a notice of default has been served, a notice of default has been upheld or varied or where the court has granted the creditor a warrant under section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970.