

LAND REFORM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Right to Buy Land to Further Sustainable Development

Applications for consent

Section 55 – Right to buy: application procedure

244. Subsection (1) provides that upon receiving the application under section 54, Scottish Ministers must invite: the owner of the land; where the application is to buy a tenant's interest, the tenant; any creditor in a standard security; where the application includes a third party purchaser, the third party; and any other person that may have an interest in the application, to send written comments on the application to Scottish Ministers 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 the invitations.
245. Subsection (2) specifies matters which the invitation to a landowner and, where the application is to buy a tenant's interest, the tenant, must invite the landowner or tenant to provide comment on.
246. Subsection (3) 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, and subsection (4) provides that the public notice is to be given by advertisement in such manner as specified in regulations.
247. Subsection (5) provides that Ministers must pass all views received on an application to the Part 5 community body and invite them to respond to these views within 60 days of Ministers sending the invitation.
248. Subsection (6) provides that when considering whether or not to give consent to the application, Ministers must have regard to all views received in answer and responses to those views to the invitation sent under this section.
249. Subsection (7) provides that Ministers must decline to consider an application that does not comply with the requirements of section 54, is otherwise incomplete or otherwise indicates that it is one which the Scottish Ministers would be bound to reject.
250. Subsection (8) 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 Part 5 community body may respond to an invitation by Ministers under subsection (5) to provide responses to the comments on an application. Alternatively, if by the date of 60 days after the date on which the Part 5 community body may provide Ministers with a response to an invitation sent under subsection (5), the Lands Tribunal has not notified Ministers of any finding under section 71, Ministers must not make a decision until the date on which the Lands Tribunal provides Ministers with that finding.

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

251. Subsection (9) provides that, where requested by the Part 5 community body or third party purchaser where relevant, the Scottish Ministers must treat as confidential any information or document relating to the financial aspects of the application.