Community Empowerment (Scotland) Act 2015

2015 asp 6

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 17th June 2015 and received Royal Assent on 24th July 2015

An Act of the Scottish Parliament to make provision about national outcomes; to confer functions on certain persons in relation to services provided by, and assets of, certain public bodies; to amend Parts 2 and 3 of the Land Reform (Scotland) Act 2003; to enable certain bodies to buy abandoned, neglected or detrimental land; to amend section 7C of the Forestry Act 1967; to enable the Scottish Ministers to make provision about supporters' involvement in and ownership of football clubs; to make provision for registers of common good property and about disposal and use of such property; to restate and amend the law on allotments; to enable participation in decision-making by specified persons having public functions; to enable local authorities to reduce or remit non-domestic rates; and for connected purposes.

PART 1

NATIONAL OUTCOMES

1 National outcomes

(1) The Scottish Ministers must determine outcomes for Scotland (referred to in this Part as "the national outcomes") that result from, or are contributed to by, the carrying out, by the persons mentioned in subsection (2), of the functions mentioned in subsection (3).

(2) The persons are—

(a) a cross-border public authority,

(b) any other Scottish public authority,

(c) any other person carrying out functions of a public nature.

(3) The functions are—

(a) in the case of a cross-border public authority, any function that is exercisable in or as regards Scotland and does not relate to reserved matters,

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(b) in the case of any other Scottish public authority, any function that does not relate to reserved matters,

(c) in the case of any other person carrying out functions of a public nature, any such function that is exercisable in or as regards Scotland and does not relate to reserved matters.

(4) In determining the national outcomes, the Scottish Ministers must have regard to the reduction of inequalities of outcome which result from socio-economic disadvantage.

(5) Before determining the national outcomes, the Scottish Ministers must—

(a) consult—

(i) such persons who appear to them to represent the interests of communities in Scotland, and

(ii) such other persons as they consider appropriate,

(b) having consulted the persons mentioned in paragraph (a), prepare draft national outcomes, and

(c) consult the Scottish Parliament on the draft national outcomes during the consultation period.

(6) In consulting the Scottish Parliament under paragraph (c) of subsection (5), the Scottish Ministers must also lay before the Parliament a document describing—

(a) the consultation carried out under paragraph (a) of that subsection,

(b) any representations received in response to that consultation, and

(c) whether and if so how those representations have been taken account of in preparing the draft national outcomes.

(7) The Scottish Ministers must, no earlier than the expiry of the consultation period, publish the national outcomes.

(8) In subsections (5) and (7), "consultation period" means the period of 40 days beginning with the day on which the consultation mentioned in subsection (5)(c) commences; and in calculating the period of 40 days, no account is to be taken of any time during which the Scottish Parliament is dissolved or in recess for more than 4 days.

(9) The persons mentioned in subsection (2) must have regard to the national outcomes in carrying out the functions mentioned in subsection (3).

(10) Nothing in subsection (9) requires the Scottish Parliament or the Scottish Parliamentary Corporate Body to have regard to the national outcomes in carrying out any of their functions.

(11) In this section—

"community" includes any community based on common interest, identity or geography,

"cross-border public authority" has the meaning given by section 88(5) of the Scotland Act 1998,

"reserved matters" is to be construed in accordance with that Act.

Commencement Information

I1 S. 1 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

2 Review of national outcomes

(1) The Scottish Ministers may review the national outcomes at any time (but subject to subsections (2) and (3)).

(2) The Scottish Ministers must begin a review of the national outcomes before the expiry of the period of 5 years beginning with the date on which the national outcomes were published under section 1(7).

(3) The Scottish Ministers must begin further reviews of the national outcomes before the expiry of each 5 year period.

(4) In carrying out a review of the national outcomes under subsection (1), (2) or (3), the Scottish Ministers must consult—

- (a) such persons who appear to them to represent the interests of communities in Scotland, and
- (b) such other persons as they consider appropriate.

(5) Following a review, the Scottish Ministers—

- (a) may propose revisions to the national outcomes,
- (b) must—
  - (i) where they propose to make revisions to the national outcomes, consult the Scottish Parliament on the proposed revisions during the consultation period,
  - (ii) where they do not propose to make revisions to the national outcomes, consult the Scottish Parliament during the consultation period on the national outcomes as most recently published under section 1(7) or paragraph (d)(i) or republished under paragraph (d)(ii),
- (c) may revise the national outcomes after the expiry of the consultation period, and
- (d) must—
  - (i) where the national outcomes are revised, publish the outcomes as revised,
  - (ii) where the national outcomes are not revised, republish the outcomes after the expiry of the consultation period.

(6) In consulting the Scottish Parliament under subsection (5)(b), the Scottish Ministers must also lay before the Parliament a document describing—

- (a) the consultation carried out under subsection (4),
- (b) any representations received in response to that consultation, and
- (c) where they propose to make revisions to the national outcomes, whether and if so how those representations have been taken account of in preparing the proposed revisions.

(7) References to the national outcomes in section 1(9) and in section 3 include references to the national outcomes revised under subsection (5)(c) of this section.

(8) In subsection (3), "5 year period" means the period of 5 years beginning with the date on which the national outcomes were published under sub-paragraph (i) of paragraph (d) of subsection (5) or, as the case may be, republished under sub-paragraph (ii) of that paragraph.

(9) In subsection (4), "community" includes any community based on common interest, identity or geography.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(10) In subsection (5), "consultation period" means the period of 40 days beginning with the day on which the consultation mentioned in subsection (5)(b)(i) or (ii) commences; and in calculating the period of 40 days, no account is to be taken of any time during which the Scottish Parliament is dissolved or in recess for more than 4 days.

Commencement Information
I2 S. 2 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)

3 Reports

(1) The Scottish Ministers must prepare and publish reports about the extent to which the national outcomes have been achieved.

(2) The Scottish Ministers must include in reports published under subsection (1) information about any change in the extent to which the national outcomes have been achieved since the publication of the previous report under that subsection.

(3) Reports must be prepared and published at such times as the Scottish Ministers consider appropriate.

Commencement Information
I3 S. 3 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)

PART 2

COMMUNITY PLANNING

4 Community planning

(1) Each local authority and the persons listed in schedule 1 must carry out planning for the area of the local authority for the purpose mentioned in subsection (2) ("community planning").

(2) The purpose is improvement in the achievement of outcomes resulting from, or contributed to by, the provision of services delivered by or on behalf of the local authority or the persons listed in schedule 1.

(3) In carrying out community planning, the local authority and the persons listed in schedule 1 must—
   (a) participate with each other, and
   (b) participate with any community body (as mentioned in paragraph (c) of subsection (6)) in such a way as to enable that body to participate in community planning to the extent mentioned in that paragraph.

(4) Outcomes of the type mentioned in subsection (2) ("local outcomes") must be consistent with the national outcomes determined under section 1(1) or revised under section 2(5)(c).

(5) In carrying out the functions conferred on them by this Part in relation to the area of a local authority—

(a) the local authority for the area and the persons listed in schedule 1 are collectively referred to in this Part as a "community planning partnership", and

(b) the authority and each such person is referred to in this Part as a "community planning partner".

(6) Each community planning partnership must—

(a) consider which community bodies are likely to be able to contribute to community planning having regard in particular to which of those bodies represent the interests of persons who experience inequalities of outcome which result from socio-economic disadvantage,

(b) make all reasonable efforts to secure the participation of those community bodies in community planning, and

(c) to the extent (if any) that those community bodies wish to participate in community planning, take such steps as are reasonable to enable the community bodies to participate in community planning to that extent.

(7) The Scottish Ministers may by regulations modify schedule 1 so as to—

(a) add a person or a description of person,

(b) remove an entry listed in it,

(c) amend an entry listed in it.

(8) Regulations under subsection (7) may provide that a person or a description of person listed in schedule 1 is to participate in community planning for a specific purpose.

(9) In this section, "community bodies", in relation to a community planning partnership, means bodies, whether or not formally constituted, established for purposes which consist of or include that of promoting or improving the interests of any communities (however described) resident or otherwise present in the area of the local authority for which the community planning partnership is carrying out community planning.

Commencement Information

I4 S. 4 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

5 Socio-economic inequalities

In carrying out functions conferred by this Part, a community planning partnership must act with a view to reducing inequalities of outcome which result from socio-economic disadvantage unless the partnership considers that it would be inappropriate to do so.

Commencement Information

I5 S. 5 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

6 Local outcomes improvement plan

(1) Each community planning partnership must prepare and publish a local outcomes improvement plan.

(2) A local outcomes improvement plan is a plan setting out—
- (a) local outcomes to which priority is to be given by the community planning partnership with a view to improving the achievement of the outcomes,
- (b) a description of the proposed improvement in the achievement of the outcomes,
- (c) the period within which the proposed improvement is to be achieved, and
- (d) a description of the needs and circumstances of persons residing in the area of the local authority to which the plan relates.

(3) In preparing a local outcomes improvement plan, a community planning partnership must consult—
- (a) such community bodies as it considers appropriate, and
- (b) such other persons as it considers appropriate.

(4) Before publishing a local outcomes improvement plan, the community planning partnership must take account of—
- (a) any representations received by it by virtue of subsection (3), and
- (b) the needs and circumstances of persons residing in the area of the local authority to which the plan relates.

Commencement Information
I6 S. 6 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

7 Local outcomes improvement plan: review

(1) Each community planning partnership must keep under review the question of whether it is making progress in improving the achievement of each local outcome referred to in section 6(2)(a).

(2) Each community planning partnership—
- (a) must from time to time review the local outcomes improvement plan published by it under section 6,
- (b) may, following such a review, revise the plan.

(3) Subsections (3) and (4) of section 6 apply in relation to a local outcomes improvement plan revised under subsection (2)(b) as they apply in relation to a local outcomes improvement plan prepared and published under subsection (1) of that section (but subject to the modification in subsection (4)).

(4) The modification is that the reference in subsection (4)(a) of section 6 to representations received by virtue of subsection (3) of that section is to be read as if it were a reference to representations received by virtue of that subsection as applied by subsection (3) of this section.

(5) Where a community planning partnership revises a local outcomes improvement plan under subsection (2)(b), it must publish a revised plan.

(6) Subsection (2) applies in relation to a revised local outcomes improvement plan published under subsection (5) as it applies in relation to a local outcomes improvement plan published under section 6; and the duty in subsection (5) applies accordingly.

Commencement Information
I7 S. 7 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

8 Local outcomes improvement plan: progress report

(1) Each community planning partnership must prepare and publish a local outcomes improvement plan progress report for each reporting year.

(2) A local outcomes improvement plan progress report is a report setting out—
- (a) the community planning partnership's assessment of whether there has been any improvement in the achievement of each local outcome referred to in section 6(2)(a) during the reporting year, and
- (b) the extent to which—
  - (i) the community planning partnership has participated with community bodies in carrying out its functions under this Part during the reporting year, and
  - (ii) that participation has been effective in enabling community bodies to contribute to community planning.

(3) In this section, "reporting year" means—
- (a) a period of one year beginning on 1 April, or
- (b) in relation to a particular community planning partnership, a period of one year beginning on such other date as may be specified in a direction given by the Scottish Ministers to the community planning partnership.

Commencement Information
I8 S. 8 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

9 Localities: comparison of outcomes

(1) Each community planning partnership must, for the purposes of this Part, divide the area of the local authority into smaller areas.

(2) The smaller areas mentioned in subsection (1) ("localities") must be of such type or description as may be specified by the Scottish Ministers by regulations.

(3) Having carried out the duty under subsection (1), the community planning partnership must identify each locality in which persons residing there experience significantly poorer outcomes which result from socio-economic disadvantage than—
- (a) those experienced by persons residing in other localities within the area of the local authority, or
- (b) those experienced generally by persons residing in Scotland.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(4) In carrying out the duty under subsection (3), a community planning partnership must take account of the needs and circumstances of persons residing in the area of the local authority.

(5) Regulations under subsection (2) may specify areas of a type or description subject to any conditions specified in the regulations.

(6) The Scottish Ministers may by regulations specify that localities within the area of a local authority must each be of the same type or description as may be specified in regulations under subsection (2).

(7) In this section, references to the area of a local authority mean, in relation to a community planning partnership, the area of the local authority for which the partnership is carrying out community planning.

Commencement Information

I9 S. 9(1)(3)(4)(7) in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

I10 S. 9(2)(5)(6) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I11 S. 9(2)(5)(6) in force at 20.12.2016 in so far as not already in force by S.S.I. 2016/363, **art. 2**

10 Locality plan

(1) Each community planning partnership must prepare and publish a locality plan for each locality identified by it by virtue of section 9(3).

(2) A community planning partnership may prepare and publish a locality plan for any other locality within the area of the local authority for which it is carrying out community planning.

(3) A locality plan is a plan setting out for the purposes of the locality to which the plan relates—

(a) local outcomes to which priority is to be given by the community planning partnership with a view to improving the achievement of the outcomes in the locality,

(b) a description of the proposed improvement in the achievement of the outcomes, and

(c) the period within which the proposed improvement is to be achieved.

(4) In preparing a locality plan, a community planning partnership must consult—

(a) such community bodies as it considers appropriate, and

(b) such other persons as it considers appropriate.

(5) Before publishing a locality plan, the community planning partnership must take account of—

(a) any representations received by it by virtue of subsection (4), and

(b) the needs and circumstances of persons residing in the locality to which the plan relates.

Commencement Information
I12 S. 10 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

11 Locality plan: review

(1) Each community planning partnership must keep under review the question of whether it is making progress in improving the achievement of each local outcome referred to in subsection (3)(a) of section 10 in relation to each locality for which it has published a locality plan under subsection (1) or (2) of that section.

(2) Each community planning partnership—
  (a) must from time to time review each locality plan published by it under section 10,
  (b) may, following such a review, revise such a plan.

(3) Subsections (4) and (5) of section 10 apply in relation to a locality plan revised under subsection (2)(b) as they apply in relation to a locality plan prepared and published under subsection (1) or (2) of that section (but subject to the modification in subsection (4)).

(4) The modification is that the reference in subsection (5)(a) of section 10 to representations received by virtue of subsection (4) of that section is to be read as if it were a reference to representations received by virtue of that subsection as applied by subsection (3) of this section.

(5) Where a community planning partnership revises a locality plan under subsection (2)(b), it must publish a revised plan.

(6) Subsection (2) applies in relation to a revised locality plan published under subsection (5) as it applies in relation to a locality plan published under section 10; and the duty in subsection (5) applies accordingly.

Commencement Information
I13 S. 11 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

12 Locality plan: progress report

(1) Each community planning partnership must prepare and publish a locality plan progress report in relation to each locality plan published by it under section 10 for each reporting year.

(2) A locality plan progress report is a report setting out the community planning partnership's assessment of whether there has been any improvement in the achievement of each local outcome referred to in section 10(3)(a) during the reporting year.

(3) In this section, “reporting year” means—
  (a) a period of one year beginning on 1 April, or

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(b) in relation to a particular community planning partnership, a period of one year beginning on such other date as may be specified in a direction given by the Scottish Ministers to the community planning partnership.

Commencement Information
I14 S. 12 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

13 Governance

(1) For the area of each local authority, each person mentioned in subsection (2) must—
(a) facilitate community planning,
(b) take reasonable steps to ensure that the community planning partnership carries out its functions under this Part efficiently and effectively.

(2) The persons are—
(a) the local authority,
(b) the Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978 whose area includes, or is the same as, the area of the local authority,
(c) Highlands and Islands Enterprise where the area within which, or in relation to which, it exercises functions in accordance with section 21(1) of the Enterprise and New Towns (Scotland) Act 1990 includes the whole or part of the area of the local authority,
(d) the chief constable of the Police Service of Scotland,
(e) the Scottish Fire and Rescue Service,
(f) Scottish Enterprise.

(3) The Scottish Ministers may by regulations modify subsection (2) so as to—
(a) add a person or a description of person,
(b) remove an entry listed in it,
(c) amend an entry listed in it.

Commencement Information
I15 S. 13 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

14 Community planning partners: duties

(1) Despite the duties imposed on community planning partners by this Part, a community planning partnership may agree—
(a) that a particular community planning partner need not comply with a duty in relation to a particular local outcome, or
(b) that a particular community planning partner need comply with a duty in relation to a particular local outcome only to such extent as may be so agreed.

(2) Each community planning partner must co-operate with the other community planning partners in carrying out community planning.

(3) Each community planning partner must, in relation to a community planning partnership, contribute such funds, staff and other resources as the community planning partnership considers appropriate—

(a) with a view to improving, or contributing to an improvement in, the achievement of each local outcome referred to in section 6(2)(a), and

(b) for the purpose of securing the participation of the community bodies mentioned in section 4(6)(a) in community planning.

(4) Each community planning partner must provide such information to the community planning partnership about the local outcomes referred to in section 6(2)(a) as the community planning partnership may request.

(5) Each community planning partner must, in carrying out its functions, take account of the local outcomes improvement plan published under section 6 or, as the case may be, section 7(5).

Commencement Information

I16 S. 14 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

15 Guidance

(1) Each community planning partnership must have regard to any guidance issued by the Scottish Ministers about the carrying out of functions conferred on the partnership by this Part.

(2) Each community planning partner must have regard to any guidance issued by the Scottish Ministers about the carrying out of functions conferred on the partner by this Part.

(3) Before issuing guidance of the type mentioned in subsection (1) or (2), the Scottish Ministers must consult such persons as they think fit.

Commencement Information

I17 S. 15 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I18 S. 15 in force at 20.12.2016 in so far as not already in force by S.S.I. 2016/363, **art. 2**

16 Duty to promote community planning

The Scottish Ministers must promote community planning when carrying out any of their functions which might affect—

(a) community planning,

(b) a community planning partner.

Commencement Information

I19 S. 16 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

17 Establishment of corporate bodies

(1) Following an application made jointly by each person mentioned in section 13(2), the Scottish Ministers may by regulations establish a body corporate with such constitution and functions about community planning as may be specified in the regulations.

(2) The application referred to in subsection (1) must include information about the following matters—
- (a) any consultation about the question of whether to make the application,
- (b) representations received in response to any such consultation,
- (c) the functions to be specified in regulations made under subsection (1),
- (d) such other matters as may be prescribed by the Scottish Ministers by regulations.

(3) Regulations under subsection (1) may include provision about—
- (a) the membership of the body established by the regulations,
- (b) the proceedings of the body,
- (c) the transfer of property and other rights and liabilities to and from the body,
- (d) the appointment and employment of staff by the body,
- (e) the supply by other persons of services to the body,
- (f) the audit of accounts by the body,
- (g) the dissolution of the body, and
- (h) such other matters as the Scottish Ministers think fit.

(4) A function may be specified in regulations under subsection (1) even if another enactment or rule of law—
- (a) provides that the function is to be carried out by a person other than the body established by virtue of subsection (1), or
- (b) prevents the carrying out of the function by that body.

Commencement Information
I20 S. 17 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

18 Interpretation of Part 2

In this Part—

"community bodies" has the meaning given by section 4(9),
"community planning" has the meaning given by section 4(1),
"community planning partner" has the meaning given by section 4(5),
"community planning partnership" has the meaning given by section 4(5),
"local outcomes" has the meaning given by section 4(4),
"locality" has the meaning given by section 9(2).

Commencement Information
I21 S. 18 in force at 13.11.2015 by S.S.I. 2015/358, art. 2, **Sch.**

PART 3

PARTICIPATION REQUESTS

Key definitions

19 Meaning of "community-controlled body"

In this Part, a "community-controlled body" means a body (whether corporate or unincorporated) having a written constitution that includes the following—

(a) a definition of the community to which the body relates,

(b) provision that the majority of the members of the body is to consist of members of that community,

(c) provision that the members of the body who consist of members of that community have control of the body,

(d) provision that membership of the body is open to any member of that community,

(e) a statement of the body's aims and purposes, including the promotion of a benefit for that community, and

(f) provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

Commencement Information

I22 S. 19 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(a)**

20 Meaning of "community participation body"

(1) In this Part, "community participation body" means—

(a) a community-controlled body,

(b) a community council established in accordance with Part 4 of the Local Government (Scotland) Act 1973,

(c) a body mentioned in subsection (2), or

(d) a group mentioned in subsection (4).

(2) The body is a body (whether corporate or unincorporated)—

(a) that is designated as a community participation body by an order made by the Scottish Ministers for the purposes of this Part, or

(b) that falls within a class of bodies designated as community participation bodies by such an order for the purposes of this Part.

(3) Where the power to make an order under subsection (2)(a) is exercised in relation to a trust, the community participation body is to be the trustees of the trust.

(4) The group is a group—

(a) that comprises a number of individuals who are members of the group,

(b) that has no written constitution,

(c) that relates to a particular community,

(d) membership of which is open to any member of that community,

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(e) whose decisions are made or otherwise controlled by members of the group who are members of that community, and

(f) any surplus funds and assets of which are to be applied for the benefit of that community.

Commencement Information

I23 S. 20(1)(4) in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

I24 S. 20(2)(3) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **sch.**

I25 S. 20(2)(3) in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/40, art. 2, **sch.**

21 Meaning of "public service authority"

(1) In this Part, "public service authority" means—

(a) a person listed, or of a description listed, in schedule 2, or

(b) a person mentioned in subsection (3).

(2) The Scottish Ministers may by order modify schedule 2 so as to—

(a) remove an entry listed in it,

(b) amend an entry listed in it.

(3) The person is a person—

(a) that is designated as a public service authority by an order made by the Scottish Ministers for the purposes of this Part, or

(b) that falls within a class of persons designated as public service authorities by such an order for the purposes of this Part.

(4) An order under subsection (3) may designate a person, or class of persons, only if the person, or (as the case may be) each of the persons falling within the class, is—

(a) a part of the Scottish Administration,

(b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or

(c) a publicly-owned company.

(5) In subsection (4)(c), "publicly-owned company" means a company that is wholly owned by one or more public service authorities.

(6) For that purpose, a company is wholly owned by one or more public service authorities if it has no members other than—

(a) the public service authority or (as the case may be) authorities,

(b) other companies that are wholly owned by the public service authority or (as the case may be) authorities, or

(c) persons acting on behalf of—

(i) the public service authority or (as the case may be) authorities, or

(ii) such other companies.

(7) In this section, "company" includes any body corporate.

(8) Subsection (9) applies where the Scottish Ministers make an order under subsection (3).

(9) The Scottish Ministers may specify in the order a public service that is or may be provided by or on behalf of the person designated, or (as the case may be) a person falling within the class designated, in respect of which a specified outcome may not be specified in a participation request.

Commencement Information

I26 S. 21(1)(5)-(7) in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

I27 S. 21(2)-(4)(8)(9) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **sch.**

I28 S. 21(2)-(4)(8) (9) in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/40, art. 2, **sch.**

Participation requests

22 Participation requests

(1) A community participation body may make a request to a public service authority to permit the body to participate in an outcome improvement process.

(2) In making such a request, the community participation body must—

(a) specify an outcome that results from, or is contributed to by virtue of, the provision of a service provided to the public by or on behalf of the authority,

(b) set out the reasons why the community participation body considers it should participate in the outcome improvement process,

(c) provide details of any knowledge, expertise and experience the community participation body has in relation to the specified outcome, and

(d) provide an explanation of the improvement in the specified outcome which the community participation body anticipates may arise as a result of its participation in the process.

(3) Subsection (4) applies where a community participation body which is a group as mentioned in section 20(4) makes a participation request to a public service authority.

(4) The group must, in addition to complying with subsection (2), provide such information to the authority as the authority may require in order for it to be satisfied that the body meets the requirements to be such a group.

(5) A participation request may be made jointly by two or more community participation bodies.

(6) A participation request may include a request that one or more public service authorities other than the authority to which the request is made participate in the outcome improvement process along with the authority to which the request is made.

(7) In this Part—

"outcome improvement process", in relation to a public service authority, means a process established or to be established by the authority with a view to improving an outcome that results from, or is contributed to by virtue of, the provision of a public service,

"participation request" means a request made under subsection (1),

"public service" means a service provided to the public by or on behalf of a public service authority,

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

"specified outcome" means an outcome of the type mentioned in subsection (2)(a).

Commencement Information
I29 S. 22 in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

23 Regulations

(1) The Scottish Ministers may by regulations make further provision about participation requests.

(2) Regulations under subsection (1) may in particular make provision for or in connection with specifying—
- (a) the manner in which requests are to be made,
- (b) the procedure to be followed by public service authorities in relation to requests,
- (c) the procedure to be followed by public authorities in relation to requests that include a request of the type mentioned in section 22(6),
- (d) the information to be provided in connection with requests (in addition to that required under section 22(2)),
- (e) ways in which public service authorities are to promote the use of participation requests,
- (f) support that public service authorities are to make available to community participation bodies to enable such bodies to make a participation request and participate in any outcome improvement process resulting from such a request,
- (g) types of communities that may need additional support in order to form community participation bodies, make participation requests and participate in outcome improvement processes.

Commencement Information
I30 S. 23 in force at 13.11.2015 by S.S.I. 2015/358, art. 2, **Sch.**

Decisions about participation requests

24 Participation requests: decisions

(1) This section applies where a participation request is made by a community participation body to a public service authority.

(2) The authority must decide whether to agree to or refuse the participation request.

(3) In reaching its decision under subsection (2), the authority must take into consideration the following matters—
- (a) the reasons set out in the request under section 22(2)(b),
- (b) any other information provided in support of the request (whether such other information is contained in the request or otherwise provided),

(c) whether agreeing to the request mentioned in subsection (2) would be likely to promote or improve—
  (i) economic development,
  (ii) regeneration,
  (iii) public health,
  (iv) social wellbeing, or
  (v) environmental wellbeing,

(d) whether agreeing to the request would be likely—
  (i) to reduce inequalities of outcome which result from socio-economic disadvantage,
  (ii) to lead to an increase in participation in the outcome improvement process to which the request relates by persons who experience socio-economic disadvantage,
  (iii) otherwise to lead to an increase in participation by such persons in the design or delivery of a public service the provision of which results in, or contributes to, the specified outcome mentioned in the request,

(e) any other benefits that might arise if the request were agreed to, and

(f) any other matter (whether or not included in or arising out of the request) that the authority considers relevant.

(4) The authority must exercise the function under subsection (2) in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements.

(5) The authority must agree to the request unless there are reasonable grounds for refusing it.

(6) The authority must, before the end of the period mentioned in subsection (7), give notice (in this Part, a "decision notice") to the community participation body of—
  (a) its decision to agree to or refuse the request, and
  (b) if its decision is to refuse the request, the reasons for the decision.

(7) The period is—
  (a) a period prescribed in regulations made by the Scottish Ministers, or
  (b) such longer period as may be agreed between the authority and the community participation body.

(8) The Scottish Ministers may by regulations make provision about—
  (a) the information (in addition to that required under this Part) that a decision notice is to contain, and
  (b) the manner in which a decision notice is to be given.

Commencement Information

I31 S. 24(1)-(6)(7)(b) in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

I32 S. 24(7)(a)(8) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **sch.**

I33 S. 24(7)(a)(8) in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/40, art. 2, **sch.**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

25 Decision notice: information about outcome improvement process

(1) This section applies where a public service authority gives a decision notice agreeing to a participation request by a community participation body.

(2) Where the authority at the time of giving the notice has established an outcome improvement process, the decision notice must—
- (a) describe the operation of the outcome improvement process,
- (b) specify what stage in the process has been reached,
- (c) explain how and to what extent the community participation body is expected to participate in the process, and
- (d) if any other person participates in the process, describe how the person participates.

(3) Where the authority at the time of giving the notice has not established an outcome improvement process, the decision notice must—
- (a) describe how the proposed process is intended to operate,
- (b) explain how and to what extent the community participation body which made the participation request is expected to participate in the proposed process, and
- (c) if any other person is expected to participate in the proposed process, describe how the person is expected to participate.

Commencement Information
I34 S. 25 in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

26 Proposed outcome improvement process

(1) This section applies where a public service authority gives a community participation body a decision notice as mentioned in section 25(3).

(2) The community participation body may make written representations in relation to the proposed outcome improvement process.

(3) Any representations under subsection (2) must be made before the end of the period of 28 days beginning with the day on which the notice is given.

(4) Before giving notice under subsection (5), the authority must take into consideration any representations made under subsection (2).

(5) The authority must, before the end of the period of 28 days beginning with the day after the expiry of the period mentioned in subsection (3), give a notice to the community participation body containing details of the outcome improvement process that is to be established.

(6) The authority must publish such information about the process as may be specified in regulations made by the Scottish Ministers.

(7) The authority must publish the information mentioned in subsection (6) on a website or by other electronic means.

Commencement Information

I35 S. 26(1)-(5)(7) in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

I36 S. 26(6) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **sch.**

I37 S. 26(6) in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/40, art. 2, **sch.**

27 Power to decline certain participation requests

(1) Subsection (2) applies where—

(a) a participation request (a "new request") is made to a public service authority,

(b) the new request relates to matters that are the same, or substantially the same, as matters contained in a previous participation request (a "previous request"), and

(c) the previous request was made in the period of two years ending with the date on which the new request is made.

(2) The public service authority may decline to consider the new request.

(3) For the purposes of subsection (1)(b), a new request relates to matters that are the same, or substantially the same, as matters contained in a previous request only if both requests relate to—

(a) the same public service, and

(b) the same, or substantially the same, outcome that results from, or is contributed to by virtue of, the provision of the public service.

(4) For the purposes of this section, it is irrelevant whether the body making a new request is the same body as, or a different body from, that which made the previous request.

Commencement Information

I38 S. 27 in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

Outcome improvement processes

28 Duty to establish and maintain outcome improvement process

A public service authority that gives notice under section 26(5) must—

(a) before the end of the period of 90 days beginning with the day on which the notice is given, establish the outcome improvement process in respect of which the notice is given by taking whatever steps are necessary to initiate the process, and

(b) maintain that process.

Commencement Information

I39 S. 28 in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

29 Modification of outcome improvement process

(1) This section applies where a public service authority establishes an outcome improvement process under section 28(a) following a participation request by a community participation body.

(2) Following consultation with the community participation body, the authority may modify the outcome improvement process.

(3) Where the outcome improvement process is modified under subsection (2), the authority must publish such information about the modification as may be specified in regulations made by the Scottish Ministers.

Commencement Information

I40 S. 29(1)(2) in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

I41 S. 29(3) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I42 S. 29(3) in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/40, art. 2, **sch.**

PROSPECTIVE

Appeals and reviews

30 Regulations: appeals and reviews

(1) The Scottish Ministers may by regulations make provision for or in connection with—
- (a) appeals against decision notices,
- (b) reviews of decisions of public service authorities relating to participation requests.

(2) Regulations under subsection (1) may, in particular, make provision for or in connection with—
- (a) the procedure to be followed in connection with appeals and reviews,
- (b) the manner in which appeals and reviews are to be conducted,
- (c) the time limits within which—
  - (i) appeals are to be brought,
  - (ii) applications for reviews are to be made,
- (d) the circumstances under which—
  - (i) appeals may or may not be brought,
  - (ii) applications for reviews may or may not be made,
- (e) the persons to whom—
  - (i) appeals may be made,
  - (ii) applications for reviews may be made,
- (f) the powers of persons determining appeals and the disposals available to such persons,
- (g) the steps that may be taken by a public service authority following a review,
- (h) the effect of any decision taken in relation to an appeal or review on a decision notice to which the appeal or review relates.

Reporting

31 Reporting

(1) This section applies where—
- (a) a participation request has been made, and
- (b) the outcome improvement process relating to that request is complete.

(2) The public service authority that established the process must publish a report—
- (a) summarising the outcomes of the process, including whether (and, if so, how and to what extent) the specified outcome to which the process related has been improved,
- (b) describing how and to what extent the participation of the community participation body that made the participation request to which the process related influenced the process and the outcomes, and
- (c) explaining how the authority intends to keep the community participation body and any other persons informed about—
  - (i) changes in the outcomes of the process, and
  - (ii) any other matters relating to the outcomes.

(3) In preparing the report mentioned in subsection (2), the public service authority must seek the views of the bodies mentioned in subsection (4) in relation to—
- (a) the way in which the outcome improvement process was conducted, and
- (b) the outcomes of the process, including whether (and, if so, how and to what extent) the specified outcome to which the process related has been improved.

(4) The bodies referred to in subsection (3) are—
- (a) the community participation body which made the participation request to which the outcome improvement process related, and
- (b) any other community participation bodies which participated in that process.

(5) The authority must publish the report mentioned in subsection (2) on a website or by other electronic means.

(6) The Scottish Ministers may by regulations make provision about reports published under subsection (2), including the information (in addition to that required under that subsection) that reports are to contain.

Commencement Information

I43 S. 31(1)-(5) in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

I44 S. 31(6) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I45 S. 31(6) in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/40, art. 2, **sch.**

32 Annual reports

(1) A public service authority must publish a participation request report for each reporting year.

(2) A participation request report is a report setting out, in respect of the reporting year to which it relates—
- (a) the number of participation requests the authority received,

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(b) the number of such requests which the authority—
(i) agreed to, and
(ii) refused,

(c) the number of such requests which resulted in changes to a public service provided by or on behalf of the authority, and

(d) any action taken by the authority—
(i) to promote the use of participation requests,
(ii) to support a community participation body in the making of a participation request.

(3) A participation request report is to be published under subsection (1) no later than 30 June following the end of the reporting year to which it relates.

(4) In this section, "reporting year" means a period of one year beginning on 1 April.

Commencement Information
I46 S. 32 in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

33 Ministerial report

(1) The Scottish Ministers must prepare, and lay before the Scottish Parliament, a report on the operation of participation requests.

(2) The report is to be prepared before the expiry of the period of three years beginning with the day on which section 22 comes into force.

Commencement Information
I47 S. 33 in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

Guidance

34 Guidance

(1) A public service authority must have regard to any guidance issued by the Scottish Ministers about the carrying out of functions by the authority under this Part.

(2) Before issuing such guidance, the Scottish Ministers must consult such persons as they think fit.

Commencement Information
I48 S. 34 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**
I49 S. 34 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/40, art. 2, **sch.**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

Interpretation of Part 3

35 Interpretation of Part 3

In this Part—

"community-controlled body" has the meaning given by section 19,

"community participation body" has the meaning given by section 20(1),

"constitution", in relation to a company, means the memorandum and articles of association of the company,

"decision notice" is to be construed in accordance with section 24(6),

"equal opportunities" and "equal opportunity requirements" have the same meanings as in Section L2 (equal opportunities) of Part 2 of Schedule 5 to the Scotland Act 1998,

"outcome improvement process" has the meaning given by section 22(7),

"participation request" has the meaning given by section 22(7),

"public service" has the meaning given by section 22(7),

"public service authority" has the meaning given by section 21,

"specified outcome" has the meaning given by section 22(7).

Commencement Information

I50 S. 35 in force at 13.11.2015 by S.S.I. 2015/358, art. 2, **Sch.**

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),

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

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 ".

Commencement Information

I51 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,

(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.".

(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

I52 S. 37(1)(4)(7)(8) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I53 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)

I54 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,

(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

I55 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,

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(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,

(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

I56 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

I57 S. 40 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I58 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 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

I59 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

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

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.

(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

(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,

(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

I60 S. 42(1)(2)(4)(9) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I61 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)

I62 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)(ii) 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

(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)(ii) 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.”.

Commencement Information

I63 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—

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(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.”.

Commencement Information

I64 S. 44 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I65 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

I66 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.

(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

I67 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.”.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

Commencement Information

I68 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 ",

(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

I69 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 ballotter, etc.**

(1) The ballot is to be conducted by a person (the "ballotter") 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 ballotter 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 ballotter as will enable the community body to contact the ballotter.

(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 ballotter with wording for the proposition mentioned in section 51(2)(b); and the ballotter 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 ballotter, 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.”.

Commencement Information
I70 S. 49 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**
I71 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
I72 S. 50 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I73 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.

(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.".

Commencement Information

I74 S. 51 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)

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

I75 S. 52 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I76 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—

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(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 ballotter 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,

the day following the date notified to the ballotter 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

I77 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
I78 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—

"(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
I79 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
I80 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—

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

"**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) 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

I81 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

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(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

(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

I82 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

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(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.

(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

I83 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

I84 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.

(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”.

Commencement Information

I85 S. 61 in force at 15.4.2016 by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)

Modifications of Part 3 of Land Reform (Scotland) Act 2003

62 Crofting community bodies

(1) Section 71 of the 2003 Act (crofting community bodies) is amended as follows.

(2) Before subsection (1), insert—

“(A1) A crofting 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 “crofting community body is, subject to subsection (4) below,”, substitute “ body falls within this subsection if it is ”,

(b) in paragraph (b), after “land”, insert “ , the interest mentioned in section 69A(3) ”,

(c) in paragraph (c), for “20”, substitute “ 10 ”,

(d) for paragraph (d), substitute—

“(d) provision that at least three quarters of the members of the company are members of the crofting community,”,

(e) in paragraph (f), the words “and the auditing of its accounts” are repealed, and

(f) in paragraph (h)—

(i) after “land”, insert “ , interest in land ”, and

(ii) in sub-paragraph (i), for the words “or community body”, substitute “ , community body or Part 3A community body (as defined in section 97D) ”.

(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—

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(a) a definition of the crofting community to which the SCIO relates,

(b) provision enabling the SCIO to exercise the right to buy land, the interest mentioned in section 69A(3) and sporting interests under this Part,

(c) provision that the SCIO must have not fewer than 10 members,

(d) provision that at least three quarters of the members of the SCIO are members of the crofting community,

(e) provision under which the members of the SCIO who consist of members of the crofting 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 crofting 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 crofting community to which the society relates,

(b) provision enabling the society to exercise the right to buy land, the interest mentioned in section 69A(3) and sporting interests 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 crofting community,

(e) provision under which the members of the society who consist of members of the crofting 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 crofting 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 72(1) in consequence of that provision as they consider necessary or expedient.".

(7) In subsection (5)—

(a) after "(1)(a)", insert " , (1A)(a) or (1B)(a) ", and

(b) in paragraph (a)—

(i) in sub-paragraph (i), after "Act", insert " and who are entitled to vote in local government elections in the polling district or districts in which that township is situated ",

(ii) the word "or" immediately following sub-paragraph (i) is repealed, and

(iii) in sub-paragraph (ii), for the words from "being" to the end of the paragraph, substitute—

"(ii) are tenants of crofts in the crofting township whose names are entered in the Crofting Register, or the Register of Crofts, as the tenants of such crofts;

(iii) are owner-occupier crofters of owner-occupied crofts in the crofting township whose names are entered in the Crofting Register as the owner-occupier crofters of such crofts; or

(iv) are such other persons, or are persons falling within a class of such other persons, as may be prescribed;".

(8) In subsection (6)—

(a) for "(5)(a)(i)", substitute " (5)(a) ",

(b) after "above", insert " — ", and

(c) at the end, insert—

""owner-occupied croft" has the meaning given by section 19B(5) of the Crofters (Scotland) Act 1993,

"owner-occupier crofter" is to be construed in accordance with section 19B of that Act.".

(9) 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),

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

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

Commencement Information
I86 S. 62 in force at 16.12.2016 for specified purposes by S.S.I. 2016/394, art. 2, **sch.**

63 Modification of memorandum, articles, constitution or registered rules

In section 72 of the 2003 Act (provisions supplementary to section 71)—

(a) in subsection (1), for "or articles of association", substitute " , articles of association, constitution or registered rules (as defined in section 71(8)) ", and

(b) after subsection (2), insert—

"(3) Subsection (2) does not apply if the crofting community body would no longer be entitled to buy the land because the land is not eligible croft land.

(4) Where the power conferred by subsection (2) 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
I87 S. 63 in force at 16.12.2016 for specified purposes by S.S.I. 2016/394, art. 2, **sch.**

64 Application: information about rights and interest in land

(1) Section 73 of the 2003 Act (application by crofting community body for consent to buy croft land etc.) is amended as follows.

(2) In subsection (5)—

(a) after "form", insert " , shall specify the persons mentioned in subsection (5ZA) ",

(b) in paragraph (b)—

(i) in sub-paragraph (i), after "application", insert " known to the crofting community body ", and

(ii) the words from "(ii)" to the end of the paragraph are repealed, and

(c) paragraph (f) is repealed.

(3) After subsection (5), insert—

"(5ZA) The persons are—

(a) the owner of the land,

(b) any creditor in a standard security over the land or any part of it with a right to sell the land or any part of it,

(c) the tenant of any tenancy of land over which the tenant has an interest,

(d) the person entitled to any sporting interests,

in respect of which the right to buy is sought to be exercised.".

(4) After subsection (5A), insert—

"(5AA) Ministers may by regulations—

(a) modify any of paragraphs (a) to (g) of subsection (5),

(b) provide for any of those paragraphs not to apply in such cases or circumstances as may be specified in the regulations.".

(5) In subsection (11), for paragraphs (a) and (b), substitute " in such manner as may be prescribed ".

Commencement Information

I88 S. 64 in force at 16.12.2016 for specified purposes by S.S.I. 2016/394, art. 2, **sch.**

VALID FROM 24/02/2021

65 Criteria for consent by Ministers

In section 74 of the 2003 Act (criteria for consent by Ministers), in subsection (1)—

(a) the word "and" immediately following paragraph (m) is repealed, and

(b) after paragraph (n), insert—

"(o) that the owner of the land to which the application relates is accurately identified in the application,

(p) that any creditor in a standard security over the land to which the application relates or any part of it with a right to sell the land or any part of it is accurately identified in the application,

(q) in the case of an application made by virtue of section 69A(2), that the tenant whose interest is the subject of the application is accurately identified in the application, and

(r) that the person entitled to any sporting interests to which the application relates is accurately identified in the application.".

66 Ballot: information and expenses

(1) Section 75 of the 2003 Act (ballot to indicate approval for the purposes of section 74(1)(m)) is amended as follows.

(2) After subsection (4), insert—

"(4A) Ministers may require the crofting community body—

(a) to provide such information relating to the ballot as they think fit, and

(b) to provide such information relating to any consultation with those eligible to vote in the ballot undertaken during the period in which the ballot was carried out as Ministers think fit.

(4B) Subject to subsection (6), the expense of conducting a ballot under this section is to be met by the crofting community body.".

(3) After subsection (5), insert—

"(6) Ministers may by regulations make provision for or in connection with enabling a crofting community body, in such circumstances as may be specified in the regulations, to apply to them to seek reimbursement of the expense of conducting a ballot under this section.

(7) Regulations under subsection (6) may in particular make provision in relation to—

(a) the circumstances in which a crofting community body may make an application by virtue of that subsection,

(b) the method to be applied by Ministers in calculating the expense of conducting the ballot,

(c) the criteria to be applied by Ministers in deciding whether to make a reimbursement to the applicant,

(d) the procedure to be followed in connection with the making of—

(i) an application to Ministers,

(ii) an appeal against a decision made by Ministers in respect of an application,

(e) persons who may consider such an appeal,

(f) the powers of such persons.".

Commencement Information

I89 S. 66 in force at 16.12.2016 for specified purposes by S.S.I. 2016/394, art. 2, **sch.**

VALID FROM 24/02/2021

67 Application by more than one crofting community body

In section 76 of the 2003 Act (right to buy same croft land exercisable by only one crofting community body), for subsection (4)(b)(i), substitute—

"(i) each person invited, under section 73(8)(a), to send them views on the application,".

VALID FROM 24/02/2021

68 Reference to Land Court of questions on applications

In section 81 of the 2003 Act (reference to Land Court of questions on applications), in subsection (1)—

(a) after paragraph (b), insert—

"(ba) the owner of the land which is the subject of the application,

(bb) the person entitled to any sporting interests which are the subject of the application,", and

(b) in paragraph (ca), after "interest", where it first occurs, insert "—

(i) the tenant; and

(ii)".

VALID FROM 24/02/2021

69 Valuation: views on representations and time limit

In section 88 of the 2003 Act (assessment of value of croft land etc.)—

(a) after subsection (9), insert—

"(9A) Where written representations under subsection (9) are received—

(a) from the owner of the land, the tenant or the person entitled to the sporting interests, the valuer must invite the crofting community body which is exercising its right to buy the land, tenant's interest or sporting interests to send its views on the representations in writing,

(b) from the crofting community body which is exercising its right to buy the land, tenant's interest or sporting interests, the valuer must invite the owner of the land, the tenant or the person entitled to the sporting interests to send the views of the owner, tenant or (as the case may be) person on the representations in writing.

(9B) In carrying out a valuation under this section, the valuer must consider any views sent under subsection (9A).", and

(b) in subsection (13), for the word "6", substitute " 8 ".

70 Compensation

In section 89 of the 2003 Act (compensation), for subsection (4), substitute—

"(4) Ministers may, by order, make provision for or in connection with specifying—

(a) amounts payable in respect of loss or expense incurred as mentioned in subsection (1),

(b) amounts payable in respect of loss or expense incurred by virtue of this Part by a person of such other description as may be specified,

(c) the person who is liable to pay those amounts,

(d) the procedure under which claims for compensation under this section are to be made.”.

Commencement Information

I90 S. 70 in force at 16.12.2016 for specified purposes by S.S.I. 2016/394, art. 2, **sch.**

VALID FROM 24/02/2021

71 Land Court: reasons for decision under section 92

In section 92 of the 2003 Act (appeals to Land Court: valuation)—

(a) in subsection (5), for the words “within 4 weeks of the hearing of the appeal”, substitute “—

(a) within 8 weeks of the hearing of the appeal, or

(b) where subsection (5A) applies, by such later date referred to in paragraph (b)(ii) of that subsection.”,

(b) after subsection (5), insert—

“(5A) This subsection applies where—

(a) the Land Court considers that it is not reasonable to issue a written statement mentioned in subsection (5) by the time limit specified in paragraph (a) of that subsection, and

(b) before the expiry of that time limit, the Land Court has notified the parties to the appeal—

(i) that the Land Court is unable to issue a written statement by that time limit, and

(ii) of the date by which the Land Court will issue such a written statement.”,

(c) in subsection (6), 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 (5) above, or

(b) to issue a written statement by the date referred to in paragraph (b) of that subsection.”, and

(d) after subsection (6), insert—

“(6A) Where the owner of land, the tenant, the person entitled to the sporting interests or the crofting community body appeals under this section, the owner, tenant, person so entitled or, as the case may be, crofting 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.

(6B) The Land Court must send a copy of the written statement of reasons issued under subsection (5) to Ministers.

(6C) Failure to comply with subsection (6A) or (6B) has no effect on—

(a) the crofting community body's right to buy the land, the tenant's interest or the sporting interests, or

(b) the validity of the appeal under this section.”.

VALID FROM 24/02/2021

72 Register of Crofting Community Rights to Buy

(1) Section 94 of the 2003 Act (Register of Crofting Community Rights to Buy) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a)—

(i) at the beginning, insert “ where the crofting community body which has submitted the application 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 crofting community body which has submitted the application is constituted by a Scottish charitable incorporated organisation within the meaning given in section 71(8) (a “SCIO”), the name and address of the principal office of the SCIO,

(ab) where the crofting community body which has submitted the application is constituted by a community benefit society as defined in section 71(8), the name and address of the registered office of the society,”.

(3) After subsection (2), insert—

“(2A) Subsection (2B) applies where—

(a) a crofting community body changes its name,

(b) a crofting 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 crofting community body which is constituted by a SCIO changes the address of its principal office.

(2B) The crofting community body must, as soon as reasonably practicable after the change is made, notify the Crofting Commission of the change.”.

(4) After subsection (3), insert—

“(3A) If the crofting community body registering an application requires that any such information or document relating to that application and falling within subsection (3B) as is specified in the requirement be withheld from public inspection, that information or document is to be kept by or on behalf of Ministers separately from and not entered in the crofting register.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(3B) Information or a document falls within this subsection if it relates to arrangements for the raising or expenditure of money to enable the land to which the application relates to be put to a particular use.

(3C) Nothing in subsection (3A) or (3B) obliges an applicant crofting community body, or empowers Ministers to require such a body, to submit to Ministers any information or document within subsection (3B).”.

VALID FROM 24/02/2021

73 Meaning of creditor in standard security with right to sell

After section 97 of the 2003 Act, insert—

“**97ZA Meaning of creditor in standard security with right to sell**

Any reference in this Part to a creditor in a standard security with a right to sell land is a reference to a creditor who has such a right under—

(a) section 20(2) or 23(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970, or

(b) a warrant granted under section 24(1) of that Act.”.

Abandoned, neglected and detrimental land

74 Abandoned, neglected and detrimental land

After section 97A of the 2003 Act, insert—

“**PART 3A**

COMMUNITY RIGHT TO BUY ABANDONED, NEGLECTED OR DETRIMENTAL LAND

97B Meaning of “land”

In this Part, “land” includes—

(a) bridges and other structures built on or over land,

(b) inland waters (within the meaning of section 69(1) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003),

(c) canals, and

(d) the foreshore, that is to say, the land between the high and low water marks of ordinary spring tides.

97C Right to buy eligible land

(1) The land which may be bought by a Part 3A community body under this Part is eligible land.

(2) Land is eligible for the purposes of this Part if in the opinion of Ministers—

(a) it is wholly or mainly abandoned or neglected, or

(b) the use or management of the land is such that it results in or causes harm, directly or indirectly, to the environmental wellbeing of a relevant community.

(3) In subsection (2)(b)—

(a) "harm"—

(i) includes harm the environmental effects of which have an adverse effect on the lives of persons comprising the relevant community mentioned in that subsection,

(ii) does not include harm which, in the opinion of Ministers, is negligible,

(b) "relevant community", in relation to a Part 3A community body making an application under section 97G in relation to the land, means—

(i) the community defined as mentioned in subsection (9) of section 97D to which the Part 3A community body relates (reading that subsection as if paragraph (b)(ii) were omitted), or

(ii) where the Part 3A community body is a body mentioned in section 97D(1)(b), the community to which the body relates.

(4) In determining whether land is eligible for the purposes of this Part, Ministers must have regard to prescribed matters.

(5) Eligible land does not include—

(a) land on which there is a building or other structure which is an individual's home other than a building or other structure which is occupied by an individual under a tenancy,

(b) such land pertaining to land of the type mentioned in paragraph (a) as may be prescribed,

(c) eligible croft land (as defined in section 68(2)),

(d) any croft occupied or worked by its owner or a member of its owner's family,

(e) land which is owned or occupied by the Crown by virtue of its having vested as *bona vacantia* in the Crown, or its having fallen to the Crown as *ultimus haeres*,

(f) land of such other descriptions or classes as may be prescribed.

(6) Ministers may prescribe—

(a) descriptions or classes of building or structure which are, or are to be treated as, a home for the purposes of paragraph (a) of subsection (5),

(b) descriptions or classes of occupancy or possession which are, or are to be treated as, a tenancy for the purposes of that paragraph.

(7) In subsection (5)(d), the reference to a croft being occupied includes—

(a) a reference to its being occupied otherwise than permanently, and

(b) a reference to its being occupied by way of the occupation by its owner of any dwelling-house on or pertaining to it.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

97D Part 3A community bodies

(1) A Part 3A community body is, subject to subsection (6)—
- (a) a body falling within subsection (2), (3) or (4), or
- (b) a body of such other description as may be prescribed which complies with prescribed requirements.

(2) A body falls within this subsection if it is a company limited by guarantee the articles of association of which include the following—
- (a) a definition of the community to which the company relates,
- (b) provision enabling the company to exercise the right to buy land under this Part,
- (c) provision that the company must have not fewer than 10 members,
- (d) provision that at least three quarters of the members of the company are members of the community,
- (e) provision whereby the members of the company who consist of members of the community have control of the company,
- (f) provision ensuring proper arrangements for the financial management of the company,
- (g) provision that any surplus funds or assets of the company are to be applied for the benefit of the community, and
- (h) provision that, on the winding up of the company and after satisfaction of its liabilities, its property (including any land acquired by it under this Part) passes—
  - (i) to such other community body or crofting community body as may be approved by Ministers, or
  - (ii) if no other community body or crofting community body is so approved, to Ministers or to such charity as Ministers may direct.

(3) 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,
- (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.

(4) 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) Ministers may, if they think it in the public interest to do so, disapply the requirement specified in subsection (2)(c), (3)(c) or (4)(c) in relation to any body they may specify.

(6) A body is not a Part 3A community body unless Ministers have given it written confirmation that they are satisfied that the main purpose of the body is consistent with furthering the achievement of sustainable development.

(7) Ministers may by regulations from time to time amend subsections (2), (3) and (4).

(8) If provision is made under subsection (1)(b), Ministers may by regulations make such amendment of section 97E(1) in consequence of that provision as they consider necessary or expedient.

(9) A community—

(a) is defined for the purposes of subsection (2)(a), (3)(a) and (4)(a) by reference to a postcode unit or postcode units or a prescribed type of area (or both such unit and type of area), and

(b) comprises the persons from time to time—

(i) resident in that postcode unit or in one of those postcode units or in that prescribed type of area, and

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(ii) entitled to vote, at a local government election, in a polling district which includes that postcode unit or those postcode units or that prescribed type of area (or part of it or them).

(10) In subsection (9), "postcode unit" means an area in relation to which a single postcode is used to facilitate the identification of postal service delivery points within the area.

(11) The articles of association of a company which is a Part 3A community body may, notwithstanding the generality of paragraph (h) of subsection (2), provide that its property may, in the circumstances mentioned in that paragraph, pass to another person only if that person is a charity.

(12) In this section—

"charity" means a body entered in the Scottish Charity Register,

"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,

"company limited by guarantee" has the meaning given by section 3(3) of the Companies Act 2006,

"registered rules" has the meaning given by section 149 of that Act of 2014 (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.

97E Provisions supplementary to section 97D

(1) A Part 3A community body which has bought land under this Part may not, for as long as the land or any part of it remains in its ownership, modify its memorandum, articles of association, constitution or registered rules (as defined in section 97D(12)) without Ministers' consent in writing.

(2) If Ministers are satisfied that a Part 3A community body which has, under this Part, bought land would, had it not so bought that land, no longer be entitled to do so, they may acquire the land compulsorily.

(3) Subsection (2) does not apply if the Part 3A community body would no longer be entitled to buy the land because the land is not eligible for the purposes of this Part.

(4) Where the power conferred by subsection (2) 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.

97F Register of Community Interests in Abandoned, Neglected or Detrimental Land

(1) The Keeper must set up and keep a register, to be known as the Register of Community Interests in Abandoned, Neglected or Detrimental Land (the "Part 3A Register").

(2) The Part 3A Register must be set up and kept so as to contain, in a manner and form convenient for public inspection, the following information and documents relating to each application to exercise the right to buy under this Part registered in it—

(a) where the Part 3A community body which has submitted the application is constituted by a company limited by guarantee, the name and address of the registered office of the company,

(b) where the Part 3A community body which has submitted the application is constituted by a Scottish charitable incorporated organisation within the meaning given in section 97D(12) (a "SCIO"), the name and address of the principal office of the SCIO,

(c) where the Part 3A community body which has submitted the application is constituted by a community benefit society as defined in section 97D(12), the name and address of the registered office of the society,

(d) a copy of the application to exercise the right to buy under this Part,

(e) a copy of any notification given under section 97K(4)(b),

(f) a copy of the notice given under section 97M(1),

(g) a copy of any notice under section 97P(1),

(h) a copy of any notice under section 97P(2)(a),

(i) a copy of any notice under section 97P(2)(b),

(j) a copy of any acknowledgement sent under section 97P(3),

(k) such other information as Ministers consider appropriate.

(3) Subject to subsection (4), any person who, under this Part, provides a document or other information, or makes a decision, which or a copy of which is to be registered in the Part 3A Register must, as soon as reasonably practicable after providing the document or other information or, as the case may be, making the decision, give it or a copy of it to the Keeper for the purpose of allowing it to be so registered.

(4) If the Part 3A community body registering an application requires that any such information or document relating to that application and falling within subsection (5) as is specified in the requirement be withheld from public inspection, that information or document is to be kept by or on behalf of Ministers separately from and not entered in the Register.

(5) Information or a document falls within this subsection if it relates to arrangements for the raising or expenditure of money to enable the land to which the application relates to be put to a particular use.

(6) Nothing in subsection (4) or (5) obliges an applicant Part 3A community body, or empowers Ministers to require such a body, to submit to Ministers any information or document within subsection (5).

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(7) Subsection (8) applies where—
- (a) a Part 3A community body changes its name,
- (b) a Part 3A 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 Part 3A community body which is constituted by a SCIO changes the address of its principal office.

(8) The Part 3A community body must, as soon as reasonably practicable after the change is made, notify the Keeper of the change.

(9) Ministers may by regulations modify—
- (a) paragraphs (a) to (j) of subsection (2),
- (b) subsection (4),
- (c) subsection (5).

(10) The Keeper must ensure—
- (a) that the Part 3A Register is, at all reasonable times, available for public inspection free of charge,
- (b) that members of the public are given facilities for getting copies of entries in the Part 3A Register on payment of such charges as may be prescribed, and
- (c) that any person requesting it is, on payment of such a charge, supplied with an extract entry certified to be a true copy of the original.

(11) An extract so certified is sufficient evidence of the original.

(12) In this Part, “the Keeper” means—
- (a) the Keeper of the Registers of Scotland, or
- (b) such other person as Ministers may appoint to carry out the Keeper's functions under this Part.

(13) Different persons may be so appointed for different purposes.

97G Right to buy: application for consent

(1) The right to buy under this Part may be exercised only by a Part 3A community body.

(2) That right may be so exercised only with the consent of Ministers given on the written application of the Part 3A community body.

(3) That right may be exercised in relation to more than one holding of land but in order so to exercise the right an application must be made in respect of each such holding and applications so made may be differently disposed of.

(4) In subsection (3), a “holding” of land is land in the ownership of one person or in common or joint ownership.

(5) An application under this section—
- (a) must be made in the prescribed form,
- (b) must specify—
  - (i) the owner of the land,

(ii) any tenant of the land, and

(iii) any creditor in a standard security over the land or any part of it, and

(c) must include or be accompanied by information of the prescribed kind including information (provided, where appropriate, by or by reference to maps or drawings) about the matters mentioned in subsection (6).

(6) The matters are—

(a) the reasons the Part 3A community body considers that its proposals for the land are—

(i) in the public interest, and

(ii) compatible with furthering the achievement of sustainable development in relation to the land,

(b) the reasons the Part 3A community body considers that the land is—

(i) wholly or mainly abandoned or neglected, or

(ii) being used or managed in such a way as to result in or cause harm as mentioned in section 97C(2)(b),

(c) the location and boundaries of the land in respect of which the right to buy is sought to be exercised,

(d) all rights and interests in the land known to the Part 3A community body,

(e) the proposed use, development and management of the land, and

(f) where the Part 3A community body has made a request to a relevant regulator as mentioned in section 97H(5)(b) ("relevant regulator" being construed in accordance with section 97H(6)), information about the request.

(7) A Part 3A community body applying under this section must, at the same time as it applies—

(a) send a copy of its application and the accompanying information to the owner of the land to which the application relates, and

(b) where there is a standard security in relation to the land or any part of it, send a copy of the application and the accompanying information to the creditor who holds the standard security and invite the creditor—

(i) to notify the Part 3A community body and Ministers, within 60 days of receipt of the invitation, if any of the circumstances set out in subsection (8) has arisen (or arises within 60 days of receipt of the invitation), and

(ii) if such notice is given, to provide Ministers, within that time, with the creditor's views in writing on the application.

(8) Those circumstances are that—

(a) a calling-up notice has been served by the creditor under section 19 of the Conveyancing and Feudal Reform (Scotland) Act 1970 in relation to the land which the Part 3A community body is seeking to exercise its right to buy or any part of the land and that notice has not been complied with,

(b) a notice of default served by the creditor under section 21 of that Act in relation to the land or any part of the land has not been complied with and the person on whom the notice was served has not, within the

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

period specified in section 22 of that Act, objected to the notice by way of application to the court,

(c) where that person has so objected, the court has upheld or varied the notice of default,

(d) the court has granted the creditor a warrant under section 24 of that Act in relation to the land or any part of the land.

(9) On receipt of an application under this section, Ministers must—

(a) invite—

(i) the owner of the land,

(ii) any tenant of the land,

(iii) any creditor in a standard security over the land or any part of it, and

(iv) any other person whom Ministers consider to have an interest in the application,

to send them, so as to be received not later than 60 days after the sending of the invitation, views in writing on the application,

(b) take reasonable steps to invite the owners of all land contiguous to the land to which the application relates to send them, so as to be received not later than 60 days after the sending of the invitation, views in writing on the application, and

(c) send copies of invitations given under paragraphs (a) and (b) to the Part 3A community body.

(10) An invitation given under subsection (9)(a)(i) must also invite the owner to give Ministers information about—

(a) whether the owner considers that it would be in the public interest for Ministers to consent to the application and, if not, the reasons the owner considers that it would not be in the public interest for such consent to be given,

(b) whether the owner's continuing to own the land would be compatible with furthering the achievement of sustainable development in relation to the land,

(c) whether the owner considers the land to be wholly or mainly neglected or abandoned or, as the case may be, to be used or managed in such a way as to result in or cause harm as mentioned in section 97C(2)(b) and the reasons for the owner's view,

(d) any proposals that the owner has for the land,

(e) any rights or interests in the land of which the owner is aware that are not mentioned in the application, and

(f) any other matter that the owner considers is relevant to the application.

(11) Ministers must, as soon as practicable after receiving an application, give public notice of it and of the date by which, under subsection (9)(a), views are to be received by them and, in that notice, invite persons to send to Ministers, so as to be received by them not later than 60 days after the publication of the notice, views in writing on the application.

(12) That public notice is to be given by advertisement in such manner as may be prescribed.

(13) Ministers must—

(a) send copies of any views they receive under this section to the Part 3A community body, and

(b) invite it to send them, so as to be received by them not later than 60 days after the sending of that invitation, its responses to these views.

(14) Ministers must, when considering whether to consent to an application under this section, have regard to all views on it and responses to the views which they have received in answer to invitations under this section.

(15) Ministers must decline to consider an application which—

(a) does not comply with the requirements of or imposed under this section,

(b) is otherwise incomplete, or

(c) otherwise indicates that it is one which Ministers would be bound to reject;

and Ministers are not required to comply with subsections (9) to (14) in relation to such an application.

(16) Ministers must not reach a decision on an application before—

(a) the date which is 60 days after the last date on which the Part 3A community body may provide Ministers with a response to the invitation given under subsection (13), or

(b) if by that date the Lands Tribunal has not advised Ministers of its finding on any question referred to it under section 97X in relation to the application, the date on which the Lands Tribunal provides Ministers with that finding.

(17) A Part 3A community body may require Ministers to treat as confidential any information or document relating to arrangements for the raising or expenditure of money to enable the land to be put to a particular use, being information or a document made available to Ministers for the purposes of this section.

97H Criteria for consent

(1) Ministers must not consent to an application made under section 97G unless they are satisfied—

(a) that the land to which the application relates is eligible land,

(b) that the exercise by the Part 3A community body of the right to buy under this Part is—

(i) in the public interest, and

(ii) compatible with furthering the achievement of sustainable development in relation to the land,

(c) 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,

(d) that the owner of the land is accurately identified in the application,

(e) that any creditor in a standard security over the land or any part of it with a right to sell the land or any part of it is accurately identified in the application,

(f) that the owner is not—

(i) prevented from selling the land, or

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(ii) subject to any enforceable personal obligation (other than an obligation arising by virtue of any right suspended by regulations under section 97N(3)) to sell the land otherwise than to the Part 3A community body,

(g) that the Part 3A community body complies with the provisions of section 97D,

(h) that—

(i) a significant number of the members of the community to which the application relates have a connection with the land,

(ii) the land is sufficiently near to land with which those members of the community have a connection,

(iii) where the Part 3A community body is a body mentioned in section 97D(1)(a), the land is in or sufficiently near to the area of the community by reference to which the community is defined as mentioned in section 97D(9)(a), or

(iv) where the Part 3A community body is a body mentioned in section 97D(1)(b), the land is in or sufficiently near to the area of the community to which the body relates,

(i) that the community have approved the proposal to exercise the right to buy, and

(j) that, otherwise than by virtue of this Part, the Part 3A community body has tried and failed to buy the land.

(2) Subsection (1) is subject to subsections (3) to (7).

(3) Subsections (4) to (7) apply in relation to an application made under section 97G that relates to land the use or management of which is such that it results in or causes harm to the environmental wellbeing of a relevant community (as defined in section 97C(3)).

(4) In deciding whether to consent to the application, Ministers are not required to be satisfied as to the matter mentioned in subsection (1)(c) in relation to the land.

(5) Ministers must not consent to the application unless they are satisfied (in addition to the matters specified in subsection (1) as read with subsection (4))—

(a) that the exercise by the Part 3A community body of the right to buy under this Part is compatible with removing, or substantially removing, the harm to the environmental wellbeing of the relevant community,

(b) that the Part 3A community body has, before the application is submitted, made a request to—

(i) a relevant regulator (if any), or

(ii) where there is more than one relevant regulator, to all such regulators,

to take action in relation to the land in exercise of its (or their) relevant regulatory functions that could, or might reasonably be expected to, remedy or mitigate the harm, and

(c) (regardless of whether or not a relevant regulator is taking, or has taken, action in exercise of its relevant regulatory functions in relation to the land) that the harm is unlikely to be removed, or substantially removed, by the owner of the land continuing to be its owner.

(6) For the purposes of subsection (5)—

(a) "regulator" means—

(i) such person, body or office-holder as may be prescribed, or

(ii) a person, body or office-holder of such description as may be prescribed,

(b) a regulator is "relevant" if, in the opinion of Ministers, the regulator is relevant having regard to the harm to the environmental wellbeing of the relevant community,

(c) action taken by a relevant regulator in exercise of its relevant functions includes action to secure compliance with or enforce a regulatory requirement,

(d) "regulatory functions" has the meaning given by section 1(5) (as read with section 1(6)) of the Regulatory Reform (Scotland) Act 2014, but as if the words "but does not include any such functions exercisable by a planning authority" in section 1(5) were omitted,

(e) a regulatory function is "relevant" if, in the opinion of Ministers, the function is relevant having regard to the harm to the environmental wellbeing of the relevant community.

(7) In subsection (6)(c), "regulatory requirement" has the meaning given by section 1(5) of the Regulatory Reform (Scotland) Act 2014, but as if the references to "regulator" and "regulatory functions" in paragraph (b) of that definition were references respectively to "regulator" and "regulatory functions" within the meaning given by subsection (6) of this section.

(8) References in subsection (1) to the community are, in relation to a Part 3A community body, references to—

(a) where the body is a body mentioned in section 97D(1)(a), the community defined in relation to the body under section 97D(2)(a), (3)(a) or (4)(a), or

(b) where the body is a body mentioned in section 97D(1)(b), the community to which the body relates.

97J Ballot to indicate approval for purposes of section 97H

(1) The community, defined in pursuance of section 97D in relation to a Part 3A community body which has applied to buy land, are to be taken for the purposes of section 97H(1)(i) as having approved a proposal to buy if—

(a) a ballot of the members of the community so defined has, during the period of six months which immediately preceded the date on which the application was made, been conducted by the Part 3A community body on the question whether the Part 3A community body should buy the land,

(b) in the ballot—

(i) at least half of the members of the community so defined have voted, or

(ii) fewer than half of the members of the community so defined have voted but the proportion which voted is sufficient to justify the Part 3A community body's proceeding to buy the land, and

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(c) the majority of those voting have voted in favour of the proposition that the Part 3A community body buy the land.

(2) The ballot is to be conducted as prescribed.

(3) The provisions prescribed must in particular include provision for—

(a) the ascertainment and publication of—

(i) the number of persons eligible to vote in the ballot,

(ii) the number who did vote, and

(iii) the numbers of valid votes respectively cast for and against the proposition mentioned in subsection (1)(c), and

(b) the form and manner in which the result of the ballot is to be published.

(4) The Part 3A community body which conducts a ballot must, within 21 days of the ballot (or, if its application under section 97G is made before the expiry of that period, together with the application), and in the prescribed form of return, notify Ministers of—

(a) the result,

(b) the number of persons eligible to vote,

(c) the number of persons who voted, and

(d) the number of persons who voted in favour of the proposition mentioned in subsection (1)(c).

(5) Ministers may require the Part 3A community body—

(a) to provide such information relating to the ballot as they think fit, and

(b) to provide such information relating to any consultation with those eligible to vote in the ballot undertaken during the period in which the ballot was carried out as Ministers think fit.

(6) Subject to subsection (7), the expense of conducting a ballot under this section is to be met by the Part 3A community body.

(7) Ministers may by regulations make provision for or in connection with enabling a Part 3A community body, in such circumstances as may be specified in the regulations, to apply to them to seek reimbursement of the expense of conducting a ballot under this section.

(8) Regulations under subsection (7) may in particular make provision in relation to—

(a) the circumstances in which a Part 3A community body may make an application by virtue of that subsection,

(b) the method to be applied by Ministers in calculating the expense of conducting the ballot,

(c) the criteria to be applied by Ministers in deciding whether to make a reimbursement to the applicant,

(d) the procedure to be followed in connection with the making of—

(i) an application to Ministers,

(ii) an appeal against a decision made by Ministers in respect of an application,

(e) persons who may consider such an appeal,

(f) the powers of such persons.

(9) If the ballot is not conducted as prescribed, the Part 3A community body's right to buy the land to which the body's application relates is, so far as proceeding on that application, extinguished.

97K Right to buy same land exercisable by only one Part 3A community body

(1) Only one Part 3A community body may exercise the right under this Part to buy the same land.

(2) Where two or more such bodies have applied to buy the same land, it is for Ministers to decide which application is to proceed.

(3) Ministers may not make such a decision unless they have had regard to all views on each of the applications, and responses to the views, which they have received in answer to invitations under section 97G.

(4) On Ministers so deciding—
   (a) the other body's right to buy the land which is the subject of the body's application is, so far as proceeding on that application, extinguished, and
   (b) they must notify the bodies and each person invited, under section 97G(9)(a), to send them views on the application of that fact.

97L Consent conditions

Ministers may make their consent to an application made under section 97G subject to conditions.

97M Notification of Ministers' decision on application

(1) Ministers must give written notice, in prescribed form, of their decision on an application made under section 97G, and their reasons for it, to—
   (a) the applicant Part 3A community body,
   (b) the owner of the land to which the application relates,
   (c) every other person who was invited, under section 97G(9)(a), to send them views on the application, and
   (d) the Keeper.

(2) The form of notice is to be prescribed so as to secure that the notice includes a full description of—
   (a) the land to which the application relates (provided, where appropriate, by or by reference to maps and drawings), and
   (b) where their decision is to consent to the application, any conditions imposed under section 97L.

(3) The notice given under subsection (1) must—
   (a) contain information about the consequences of the decision notified and of the rights of appeal against it given by this Part, and
   (b) state the date on which consent is given or refused.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

97N Effect of Ministers' decision on right to buy

(1) Ministers may by regulations make provision for or in connection with prohibiting, during such period as may be specified in the regulations, persons so specified from transferring or otherwise dealing with land in respect of which a Part 3A community body has made an application under section 97G.

(2) Regulations under subsection (1) may in particular include provision—
- (a) specifying transfers or dealings which are not prohibited by the regulations,
- (b) requiring or enabling such persons as may be specified in the regulations, in such circumstances as may be so specified, to register in the Register of Community Rights in Abandoned, Neglected or Detrimental Land notices as may be so specified,
- (c) requiring, in such circumstances as may be specified in the regulations, such information as may be so specified to be incorporated into deeds relating to the land as may be so specified.

(3) Ministers may by regulations make provision for or in connection with suspending, during such period as may be specified in the regulations, such rights in or over land in respect of which a Part 3A community body has made an application under section 97G as may be so specified.

(4) Regulations under subsection (3) may in particular include provision specifying—
- (a) rights to which the regulations do not apply,
- (b) rights to which the regulations do not apply in such circumstances as may be specified in the regulations.

(5) Nothing in this Part—
- (a) affects the operation of an inhibition on the sale of the land,
- (b) prevents an action of adjudication from proceeding, or
- (c) affects the commencement, execution or operation of any other diligence.

97P Confirmation of intention to proceed with purchase and withdrawal

(1) A Part 3A community body's right to buy land under this Act is exercisable only if, within 21 days of the date of notification under section 97S(12), it sends notice in writing confirming its intention to proceed to buy the land to—
- (a) Ministers, and
- (b) the owner of the land.

(2) A Part 3A community body may, at any time after—
- (a) making an application under section 97G, withdraw the application, or
- (b) confirming its intention to proceed under subsection (1), withdraw that confirmation,

by notice in writing to that effect sent to Ministers.

(3) Ministers must, within 7 days of receipt of notice under subsection (1) or (2), acknowledge receipt and send a copy of that acknowledgement to the owner of the land.

97Q Completion of purchase

(1) It is for the Part 3A community body to secure the expeditious exercise of its right to buy and, in particular—
  (a) to prepare the documents necessary to—
    (i) effect the transfer to it of the land, and
    (ii) impose any conditions (including any real burdens or servitudes) which Ministers, under section 97L, require to be imposed upon the title to land, and
  (b) in so doing, to ensure—
    (i) that the land in the application to which Ministers have consented is the same as that to be transferred, and
    (ii) that the transfer is to be effected in accordance with any other conditions imposed by Ministers under section 97L.

(2) Where the Part 3A community body is unable to fulfil the duty imposed by subsection (1)(b) because the land or part of the land in respect of which Ministers' consent was given is not owned by the person named as its owner in the application made under section 97G, it must refer that matter to Ministers.

(3) On a reference under subsection (2), Ministers must direct that the Part 3A community body's right to buy the land is, so far as proceeding on that application, extinguished.

(4) The owner of the land being bought is obliged—
  (a) to make available to the Part 3A community body such deeds and other documents as are sufficient to enable the body to proceed to complete its title to the land, and
  (b) to transfer title accordingly.

(5) If, within 6 weeks of the date on which Ministers consent to an application to buy land, the owner of the land refuses or fails to make those deeds and other documents available, or they cannot be found, the Lands Tribunal may, on the application of the Part 3A community body, order the owner or any other person appearing to the Lands Tribunal to have those deeds and documents to produce them.

(6) If the owner of the land refuses or fails to effect such sufficient transfer as is mentioned in subsection (4), the Lands Tribunal may, on the application of the Part 3A community body, authorise its clerk to adjust, execute and deliver such deeds or other documents as will complete such transfer to the like force and effect as if done by the owner or person entitled.

97R Completion of transfer

(1) The consideration for the transfer of the land is its value as assessed under section 97S.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(2) Subject to subsections (3) and (4), that consideration must be paid not later than the "final settlement date", being the date on which expires a 6 month period beginning with the date (the "consent date") when Ministers consented to the application made under section 97G to buy the land.

(3) Where—
- (a) the Part 3A community body and the owner so agree, the consideration may be paid on a date later than the final settlement date,
- (b) the assessment of the valuation of the land has not been completed by a date 4 months after the consent date, the consideration must be paid not later than 2 months after the date when that assessment is completed,
- (c) that valuation is the subject of an appeal which has not been determined within 4 months of the consent date, the consideration must be paid not later than 2 months after the date of that determination.

(4) If, on the date the consideration is to be paid, the owner is not able to effect the grant of a good and marketable title to the Part 3A community body—
- (a) the consideration, or
- (b) if, for any reason, the consideration has not been ascertained, such sum as may be fixed by the valuer appointed under section 97S as a fair estimate of what the consideration might be,

must be consigned into the Lands Tribunal until that title is granted or the Part 3A community body gives notice to the Tribunal of its decision not to proceed to complete the transaction.

(5) Except where subsection (4) applies, if the consideration remains unpaid after the date not later than which it is to be paid, the Part 3A community body's application made under section 97G in relation to the land is to be treated as withdrawn.

(6) Any heritable security which burdened the land immediately before title is granted to the Part 3A community body in pursuance of this section ceases to do so on the recording of that title in the Register of Sasines or registration in the Land Register of Scotland of the body's interest in the land.

(7) Where such a security also burdens land other than the land in respect of which title is granted to the Part 3A community body, the security does not, by virtue of subsection (6), cease to burden that other land.

(8) Unless the creditors in right of any such security otherwise agree, the Part 3A community body must pay to them according to their respective rights and preferences any sum which would, but for this subsection, be paid to the owner by the Part 3A community body as consideration for the land.

(9) Any sum paid by a Part 3A community body under subsection (8) must be deducted from the sum which the body is to pay to the owner as consideration for the land.

97S Assessment of value of land etc.

(1) Where Ministers consent to an application made under section 97G, they must, subject to subsection (2), within 7 days of doing so appoint a valuer, being a person who appears to Ministers to be suitably qualified, independent and to

have knowledge and experience of valuing land of a kind which is similar to the land being bought, to assess the value of the land to which the application relates.

(2) The validity of anything done under this section is not affected by any failure by Ministers to comply with the time limit specified in subsection (1).

(3) In assessing the value of land in pursuance of an appointment under subsection (1), a valuer—

(a) does not act on behalf of the owner of the land or of the Part 3A community body which is exercising its right to buy the land under this Part, and

(b) is to act as an expert and not as an arbiter.

(4) The value to be assessed is the market value of the land as at the date when Ministers consented to the application made under section 97G relating to the land.

(5) The "market value" of land is the aggregate of—

(a) the value it would have on the open market as between a seller and a buyer both of whom are, as respects the transaction, willing,

(b) any depreciation in the value of other land or interests belonging to the seller which may result from the transfer of land, including depreciation caused by division of the land by the transfer of land to the Part 3A community body, and

(c) the amount attributable to any disturbance to the seller which may arise in connection with the transfer of the land to the Part 3A community body.

(6) In arriving, for the purposes of this section, at the value which land would have on the open market in the circumstances mentioned in subsection (5)(a)—

(a) account may be taken, in so far as a seller and buyer such as are mentioned in subsection (5) would do so, of any factor attributable to the known existence of a person who (not being the Part 3A community body which is exercising its right to buy the land) would be willing to buy the land at a price higher than others would because of a characteristic of the land which relates peculiarly to that person's interest in buying it,

(b) no account is to be taken of—

(i) any depreciation of the type mentioned in subsection (5)(b),

(ii) any disturbance of the type mentioned in subsection (5)(c),

(iii) the absence of the period of time during which the land would, on the open market, be likely to be advertised and exposed for sale.

(7) The expense of a valuation under this section is to be met by Ministers.

(8) In carrying out a valuation under this section, the valuer must—

(a) invite—

(i) the owner of the land, and

(ii) the Part 3A community body which is exercising its right to buy the land,

to make representations in writing about the value of the land, and

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(b) consider any representations made accordingly.

(9) Where written representations under subsection (8) are received—

(a) from the owner of the land, the valuer must invite the Part 3A community body which is exercising its right to buy the land to send its views on the representations in writing,

(b) from the Part 3A 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.

(10) In carrying out a valuation under this section, the valuer must consider any views sent under subsection (9).

(11) Where the Part 3A community body and the owner of the land have agreed the valuation of the land they must notify the valuer in writing of that valuation.

(12) The valuer must, within the period set out in subsection (13), notify Ministers, the Part 3A community body and the owner of the land of the assessed value of the land.

(13) The period referred to in subsection (12) is the period of 8 weeks beginning with the date of appointment of the valuer or such longer period as Ministers may, on an application by the valuer, fix.

(14) The validity of anything done under this Part is not affected by any failure by a valuer to comply with the time limit specified in subsection (13).

97T Compensation

(1) Any person, including an owner or former owner of land, who has incurred loss or expense—

(a) in complying with the requirements of this Part following the making of an application under section 97G by a Part 3A community body,

(b) as a result of the withdrawal by the Part 3A community body of its confirmation under section 97P or its failure otherwise to complete the purchase after having so confirmed its intention under that section, or

(c) as a result of the failure of the Part 3A community body which made that application to complete the purchase,

is entitled to recover the amount of that loss or expense from the Part 3A community body.

(2) There is no such entitlement where the application made under section 97G is refused.

(3) Where such an application has been refused, the owner of the land who has incurred loss or expense as mentioned in subsection (1)(a) is entitled to recover the amount of that loss or expense from Ministers.

(4) Ministers may, by order, make provision for or in connection with specifying—

(a) amounts payable in respect of loss or expense incurred as mentioned in subsection (1),

(b) amounts payable in respect of loss or expense incurred by virtue of this Part by a person of such other description as may be specified,

(c) the person who is liable to pay those amounts,

(d) the procedure under which claims for compensation under this section are to be made.

(5) Where, at the expiry of such period of time as may be fixed for the purposes of this subsection by an order under subsection (4)(d), any question as to whether compensation is payable or as to the amount of any compensation payable has not been settled as between the parties, either of them may refer the question to the Lands Tribunal.

(6) Where either of the parties refers a question to the Lands Tribunal as mentioned in subsection (5), the party so referring the question must, within 7 days of the date of referring it, notify Ministers in writing of—

(a) the referral of the question, and

(b) the date of referring the question.

(7) The Lands Tribunal must send a copy of its findings on a question referred to it under subsection (5) to Ministers.

(8) Failure to comply with subsection (6) or (7) has no effect on—

(a) the Part 3A community body's right to buy the land, or

(b) the validity of the referral of the question under subsection (5).

(9) The duty in subsection (6) does not apply where the party referring the question mentioned in that subsection is Ministers.

97U Grants towards Part 3A community bodies' liabilities to pay compensation

(1) Ministers may, in the circumstances set out in subsection (2), pay a grant to a Part 3A community body.

(2) Those circumstances are—

(a) that after settlement of its other liabilities connected with the exercise of its right to buy land under this Part, the Part 3A community body has insufficient money to pay, or to pay in full, the amount of compensation it has to pay under section 97T,

(b) that the Part 3A community body has taken all reasonable steps to obtain money in order to pay, or to pay in full, that amount (other than applying for a grant under this section) but has been unable to obtain the money, and

(c) that it is in the public interest that Ministers pay the grant.

(3) The fact that all the circumstances set out in subsection (2) are applicable in a particular case does not prevent Ministers from refusing to pay a grant in that case.

(4) A grant under this section may be made subject to conditions which may stipulate repayment in the event of breach.

(5) Ministers may pay a grant under this section only on the application of a Part 3A community body.

(6) An application for such a grant must be made in such form and in accordance with such procedure as may be prescribed.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(7) Ministers must issue their decision on an application under this section in writing accompanied by, in the case of a refusal, a statement of the reasons for it.

(8) Ministers' decision on an application under this section is final.

97V Appeals

(1) An owner of land may appeal to the sheriff against a decision by Ministers to give consent to the exercise by a Part 3A community body of its right to buy the land.

(2) A Part 3A community body may appeal to the sheriff against a decision by Ministers not to give consent to the exercise by the Part 3A community body of its right to buy.

(3) Subsection (2) does not extend to Ministers' decision under section 97K on which of two or more applications to buy the same land is to proceed.

(4) A person who is a member of a community as defined for the purposes of section 97D in relation to a Part 3A community body may appeal to the sheriff against a decision by Ministers to consent to the exercise by the Part 3A community body of its right to buy land.

(5) A creditor in a standard security with a right to sell land may appeal to the sheriff against a decision by Ministers to give consent to the exercise by a Part 3A community body of its right to buy the land.

(6) An appeal under subsection (1), (2), (4) or (5) must be lodged within 28 days of the date on which Ministers decided to consent to the exercise of the right to buy land or refuse such consent.

(7) The sheriff in whose sheriffdom the land or any part of it is situated has jurisdiction to hear an appeal under this section.

(8) Where an appeal is made—

(a) under subsection (1) the owner must intimate that fact to—

(i) the Part 3A community body,

(ii) Ministers, and

(iii) any creditor in a standard security with a right to sell the land to which the appeal relates,

(b) under subsection (2) the Part 3A community body must intimate that fact to—

(i) the owner,

(ii) Ministers, and

(iii) any creditor in a standard security with a right to sell the land to which the appeal relates,

(c) under subsection (4) the member of the community must intimate that fact to—

(i) the Part 3A community body,

(ii) the owner,

(iii) Ministers, and

(iv) any creditor in a standard security with a right to sell the land to which the appeal relates, or

(d) under subsection (5), the creditor must intimate that fact to—

(i) the Part 3A community body,

(ii) the owner, and

(iii) Ministers.

(9) The decision of the sheriff in an appeal under this section—

(a) may require rectification of the Register of Community Interests in Abandoned, Neglected or Detrimental Land,

(b) may impose conditions upon the appellant,

(c) is final.

97W Appeals to Lands Tribunal: valuation

(1) The owner of the land and the Part 3A community body which is exercising its right to buy the land may appeal to the Lands Tribunal against the valuation carried out under section 97S.

(2) An appeal under this section must state the grounds on which it is being made and must be lodged within 21 days of the date of notification under section 97S(12).

(3) In an appeal under this section, the Lands Tribunal may reassess the value of the land.

(4) The valuer whose valuation is appealed against may be a witness in the appeal proceedings.

(5) The Lands Tribunal must give reasons for its decision on an appeal under this section and must issue a written statement of these reasons—

(a) within 8 weeks of the hearing of the appeal, or

(b) where subsection (6) applies, by such later date referred to in paragraph (b)(ii) of that subsection.

(6) This subsection applies where—

(a) the Lands Tribunal considers that it is not reasonable to issue a written statement mentioned in subsection (5) 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 Lands Tribunal is unable to issue a written statement by that time limit, and

(ii) of the date by which the Lands Tribunal will issue such a written statement.

(7) The validity of anything done under this Part is not affected by any failure of the Lands Tribunal—

(a) to comply with the time limit specified in paragraph (a) of subsection (5), or

(b) to issue a written statement by the date referred to in paragraph (b) of that subsection.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(8) Where the owner of the land or the Part 3A community body appeals under this section, the owner or, as the case may be, Part 3A 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.

(9) The Lands Tribunal must send a copy of the written statement of reasons issued under subsection (5) to Ministers.

(10) Failure to comply with subsection (8) or (9) has no effect on—
  (a) the Part 3A community body's right to buy the land, or
  (b) the validity of the appeal under this section.

(11) Ministers are not competent parties to any appeal under this section by reason only that they appointed the valuer whose valuation is the subject of the appeal.

(12) Ministers' powers under the Lands Tribunal Act 1949 to make rules as respects that Tribunal extend to such rules as may be necessary or expedient to give full effect to this section.

97X Reference to Lands Tribunal of questions on applications

(1) At any time before Ministers reach a decision on an application which has been made under section 97G—
  (a) Ministers,
  (b) any person who is a member of the community defined in relation to the applicant Part 3A community body in pursuance of section 97D,
  (c) the owner of the land which is the subject of the application,
  (d) any person who has any interest in the land giving rise to a right which is legally enforceable by that person, or
  (e) any person who is invited, under section 97G(9)(a)(iv), to send views to Ministers on the application,

may refer to the Lands Tribunal any question relating to the application.

(2) In considering any question referred to it under subsection (1), the Lands Tribunal may have regard to any representations made to it by—
  (a) the applicant Part 3A community body,
  (b) the owner of the land which is the subject of the application, or
  (c) any other person who, in the opinion of the Lands Tribunal, appears to have an interest.

(3) The Lands Tribunal—
  (a) must advise Ministers of its finding on any question so referred, and
  (b) may, by order, provide that Ministers may consent to the application only if they impose, under section 97L, such conditions as the Tribunal may specify.

(4) If the Lands Tribunal considers any question referred to it under this section to be irrelevant to Ministers' decision on the application to which it relates, it may decide to give no further consideration to the question and find accordingly.

(5) Where a person mentioned in any of paragraphs (b) to (e) of subsection (1) refers a question to the Lands Tribunal as mentioned in that subsection, the person so referring the question must, within 7 days of the date of referring it, notify Ministers of—
  (a) the referral of the question, and
  (b) the date of referring the question.

(6) Failure to comply with subsection (3)(a) or (5) has no effect on—
  (a) the validity of the application under section 97G by the Part 3A community body,
  (b) the Part 3A community body's right to buy the land, or
  (c) the validity of the referral of the question under subsection (1).

97Y Agreement as to matters referred or appealed

An appeal under section 97V or 97W does not prevent the parties from settling or otherwise agreeing the matter in respect of which the appeal was made between or among them.

97Z Interpretation of Part 3A

(1) Any reference in this Part to a creditor in a standard security with a right to sell land is a reference to a creditor who has such a right under—
  (a) section 20(2) or 23(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970, or
  (b) a warrant granted under section 24(1) of that Act.

(2) 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.

(3) Subsection (2) does not apply to a period of time specified in section 97R(2), 97V(6), or 97W(2).”.

Commencement Information
I91 S. 74 in force at 30.6.2017 for specified purposes by S.S.I. 2017/192, **art. 2**

Mediation

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

Before section 98 of the 2003 Act, insert—

“97Z1 **Mediation**

(1) Subsection (2) applies where—
  (a) a community body seeks to—
    (i) register an interest in land under Part 2, or

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(ii) exercise its right to buy land under that Part,

(b) a crofting community body seeks to exercise its right to buy—

(i) land under Part 3,

(ii) the interest of a tenant under section 69A, or

(iii) eligible sporting interests under section 70, or

(c) a Part 3A community body seeks to exercise its right to buy land under Part 3A.

(2) Ministers may, on being requested to do so by a person mentioned in paragraph (a), (b), (c), (d), (e), (f) or (as the case may be) (g) of subsection (3), take such steps as they consider appropriate for the purpose of arranging, or facilitating the arrangement of, mediation in relation to the proposed—

(a) registration of the interest in land under Part 2, or

(b) exercise of the right to buy the land, tenant's interest, or (as the case may be) eligible sporting interests.

(3) The persons are—

(a) the owner of the land,

(b) any creditor in a standard security over the land or any part of it with a right to sell the land or any part of it,

(c) the community body,

(d) the crofting community body,

(e) the Part 3A community body,

(f) the tenant in relation to whose interest the crofting community body seeks to exercise its right to buy,

(g) the owner of the eligible sporting interests in relation to which the crofting community body seeks to exercise its right to buy.

(4) The steps mentioned in subsection (2) include—

(a) appointing a mediator,

(b) making payments to mediators in respect of services provided,

(c) reimbursing reasonable expenses of mediators.

(5) In subsection (3)(b), the reference to a creditor in a standard security over the land or any part of it with a right to sell the land or any part of it is a reference to a creditor who has such a right under—

(a) section 20(2) or 23(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970, or

(b) a warrant granted under section 24(1) of that Act.”.

Commencement Information

I92 S. 75 in force at 15.4.2016 for specified purposes by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)

Meaning of “the 2003 Act”

76 Meaning of “the 2003 Act” in Part 4

In this Part, “the 2003 Act” means the Land Reform (Scotland) Act 2003.

Commencement Information

I93 S. 76 in force at 13.11.2015 by S.S.I. 2015/358, art. 2, **Sch.**

PART 5

ASSET TRANSFER REQUESTS

Key definitions

77 Meaning of "community transfer body"

(1) In this Part, "community transfer body" means—

(a) a community-controlled body, or

(b) a body mentioned in subsection (2).

(2) The body is a body (whether corporate or unincorporated)—

(a) that is designated as a community transfer body by an order made by the Scottish Ministers for the purposes of this Part, or

(b) that falls within a class of bodies designated as community transfer bodies by such an order for the purposes of this Part.

(3) Where the power to make an order under subsection (2)(a) is exercised in relation to a trust, the community transfer body is to be the trustees of the trust.

Commencement Information

I94 S. 77(1) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

I95 S. 77(2)(3) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I96 S. 77(2)(3) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

78 Meaning of "relevant authority"

(1) In this Part, a "relevant authority" means—

(a) a person listed, or of a description listed, in schedule 3, or

(b) a person mentioned in subsection (3).

(2) The Scottish Ministers may by order modify schedule 3 so as to—

(a) remove an entry listed in it,

(b) amend an entry listed in it.

(3) The person is a person—

(a) that is designated as a relevant authority by an order made by the Scottish Ministers for the purposes of this Part, or

(b) that falls within a class of persons designated as relevant authorities by such an order for the purposes of this Part.

(4) An order under subsection (3) may designate a person, or a class of persons, only if the person or (as the case may be) each of the persons falling within the class is—

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(a) a part of the Scottish Administration,
(b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
(c) a publicly-owned company.

(5) In subsection (4)(c), "publicly-owned company" means a company that is wholly owned by one or more relevant authorities.

(6) For that purpose, a company is wholly owned by one or more relevant authorities if it has no members other than—
(a) the relevant authority or (as the case may be) authorities,
(b) other companies that are wholly owned by the relevant authority or (as the case may be) authorities, or
(c) persons acting on behalf of—
(i) the relevant authority or (as the case may be) authorities, or
(ii) such other companies.

(7) In this section, "company" includes any body corporate.

Commencement Information
I97 S. 78(1)(5)-(7) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**
I98 S. 78(2)(3)(4) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**
I99 S. 78(2)(3)(4) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

Requests

79 Asset transfer requests

(1) A community transfer body may make a request in accordance with this section (in this Part, an "asset transfer request") to a relevant authority.

(2) An asset transfer request is a request—
(a) in relation to land owned by the relevant authority, for ownership of the land to be transferred to the community transfer body, or
(b) in relation to land owned or leased by the relevant authority—
(i) for the land to be leased to the community transfer body, or
(ii) for the authority to confer rights in respect of the land on the community transfer body (including, for example, rights to manage or occupy the land or use it for a purpose specified in the request).

(3) An asset transfer request of the type mentioned in subsection (2)(a) may be made only by a community transfer body falling within section 80; and references in the remainder of this Part to the making of an asset transfer request by a community transfer body are to be read accordingly.

(4) A community transfer body making an asset transfer request must specify in the request—
(a) the land to which the request relates,
(b) whether the request falls within paragraph (a), (b)(i) or (b)(ii) of subsection (2),

(c) the reasons for making the request,

(d) the benefits which the community transfer body considers will arise if the authority were to agree to the request,

(e) where the request falls within subsection (2)(a), the price that the community transfer body would be prepared to pay for the transfer of ownership of the land,

(f) where the request falls within subsection (2)(b)(i)—

(i) the amount of rent that the community transfer body would be prepared to pay in respect of any lease resulting from the request,

(ii) the duration of any such lease, and

(iii) any other terms and conditions that the community transfer body considers should be included in any such lease,

(g) where the request falls within subsection (2)(b)(ii), the nature and extent of the rights sought, and

(h) any other terms or conditions applicable to the request.

Commencement Information

I100 S. 79 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

80 Community transfer bodies that may request transfer of ownership of land

(1) A community transfer body falls within this section if—

(a) it is a company the articles of association of which include provision such as is mentioned in subsection (2),

(b) it is a Scottish charitable incorporated organisation the constitution of which includes provision that the organisation must have not fewer than 20 members,

(c) it is a community benefit society the registered rules of which include provision that the society must have not fewer than 20 members,

(d) in the case of a body designated by an order under paragraph (a) of subsection (2) of section 77, the order includes provision that the body may make an asset transfer request of the type mentioned in section 79(2)(a), or

(e) in the case of a body falling within a class of bodies designated in an order made under paragraph (b) of that subsection, the order includes provision that bodies falling within the class may make an asset transfer request of that type.

(2) The provision mentioned in subsection (1)(a) is provision that—

(a) the company must have not fewer than 20 members, and

(b) on the winding up of the company and after satisfaction of its liabilities, its property (including any land, and any rights in relation to land, acquired by it as a result of an asset transfer request under this Part) passes—

(i) to another community transfer body,

(ii) to a charity,

(iii) to such community body (within the meaning of section 34 of the Land Reform (Scotland) Act 2003) as may be approved by the Scottish Ministers,

(iv) to such crofting community body (within the meaning of section 71 of that Act) as may be so approved, or

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(v) if no such community body or crofting community body is so approved, to the Scottish Ministers or to such charity as the Scottish Ministers may direct.

Commencement Information
I101 S. 80 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

81 Asset transfer requests: regulations

(1) The Scottish Ministers may by regulations make further provision about asset transfer requests.

(2) Regulations under subsection (1) may in particular make provision for or in connection with—
- (a) specifying the manner in which requests are to be made,
- (b) specifying the procedure to be followed by a relevant authority in relation to requests,
- (c) specifying the information to be included in requests (in addition to that required under section 79(4)),
- (d) requiring publication, by such method as may be prescribed in the regulations, of the fact that a request is being made,
- (e) requiring notification of the making of a request to be given to such persons or descriptions of persons, and in such circumstances, as may be prescribed in the regulations.

(3) The Scottish Ministers may make regulations for or in connection with—
- (a) enabling a community transfer body to request information from a relevant authority about land in respect of which it proposes to make an asset transfer request,
- (b) specifying how the authority is to respond to the request for information,
- (c) specifying the circumstances in which the authority must provide information,
- (d) specifying the type of information the authority must provide in circumstances specified under paragraph (c),
- (e) specifying the circumstances in which the authority need not provide information.

Commencement Information
I102 S. 81 in force at 13.11.2015 by S.S.I. 2015/358, art. 2, **Sch.**

Decisions

82 Asset transfer requests: decisions

(1) This section applies where an asset transfer request is made by a community transfer body to a relevant authority.

(2) The authority must decide whether to agree to or refuse the request.

(3) In reaching its decision, the authority must take into consideration the following matters—

(a) the reasons for the request,

(b) any other information provided in support of the request (whether such other information is contained in the request or otherwise provided),

(c) whether agreeing to the request would be likely to promote or improve—

(i) economic development,

(ii) regeneration,

(iii) public health,

(iv) social wellbeing, or

(v) environmental wellbeing,

(d) whether agreeing to the request would be likely to reduce inequalities of outcome which result from socio-economic disadvantage,

(e) any other benefits that might arise if the request were agreed to,

(f) any benefits that might arise if the authority were to agree to or otherwise adopt an alternative proposal in respect of the land to which the request relates,

(g) how such benefits would compare to any benefits such as are mentioned in paragraphs (c) and (e),

(h) how any benefits such as are mentioned in paragraph (f) relate to other matters the authority considers relevant (including, in particular, the functions and purposes of the authority),

(i) any obligations imposed on the authority, by or under any enactment or otherwise, that may prevent, restrict or otherwise affect its ability to agree to the request, and

(j) such other matters (whether or not included in or arising out of the request) as the authority considers relevant.

(4) The authority must exercise the function under subsection (2) in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements.

(5) The authority must agree to the request unless there are reasonable grounds for refusing it.

(6) In subsection (3)(f), an "alternative proposal" includes—

(a) another asset transfer request,

(b) a proposal made by the authority or any other person.

(7) The authority must, within the period mentioned in subsection (8), give notice (in this Part, a "decision notice") to the community transfer body of—

(a) its decision to agree to or refuse the request, and

(b) the reasons for its decision.

(8) The period is—

(a) a period prescribed in regulations made by the Scottish Ministers, or

(b) such longer period as may be agreed between the authority and the community transfer body.

(9) The Scottish Ministers may by regulations make provision about—

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(a) the information (in addition to that required under this Part) that a decision notice is to contain, and
(b) the manner in which a decision notice is to be given.

Commencement Information
I103 S. 82(1)-(7)(8)(b) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**
I104 S. 82(8)(a)(9) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**
I105 S. 82(8)(a)(9) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

83 Agreement to asset transfer request

(1) This section applies where a relevant authority decides to agree to an asset transfer request made by a community transfer body.

(2) The decision notice relating to the request must—
(a) specify the terms on which, and any conditions subject to which, the authority would be prepared to transfer ownership of the land, lease the land or (as the case may be) confer rights in respect of the land to which the request relates (whether or not such terms and conditions were specified in the request),
(b) state that, if the community transfer body wishes to proceed, it must submit to the authority an offer to acquire ownership of the land, lease the land or (as the case may be) assume rights in respect of the land, and
(c) specify the period within which such an offer is to be submitted.

(3) The period specified under subsection (2)(c) must be a period of at least 6 months beginning with the date on which the decision notice is given.

(4) An offer such as is mentioned in subsection (2)(b)—
(a) must reflect any terms and conditions specified in the decision notice,
(b) may include such other reasonable terms and conditions as are necessary or expedient to secure—
(i) the transfer of ownership, the lease or (as the case may be) the conferral of rights, and
(ii) that such a transfer, lease or (as the case may be) conferral of rights takes place within a reasonable time,
(c) must be made before the end of the period specified in the decision notice under subsection (2)(c).

(5) Subsection (6) applies where no contract is concluded on the basis of such an offer before the end of the period mentioned in subsection (7).

(6) The community transfer body may appeal to the Scottish Ministers under section 90 (except in a case where the relevant authority is the Scottish Ministers).

(7) The period is—
(a) the period of 6 months beginning with the date of the offer, or
(b) such longer period—
(i) as may be agreed between the authority and the community transfer body, or

(ii) in the absence of any such agreement, as may be specified in a direction by the Scottish Ministers.

(8) A direction under subsection (7)(b)(ii) may be made only on the application of the community transfer body.

(9) An application under subsection (8) may be made on more than one occasion.

(10) The Scottish Ministers may by regulations make provision about—

(a) the form of, and procedure for making, an application such as is mentioned in subsection (8),

(b) the manner in which a direction under subsection (7)(b)(ii) is to be given,

(c) the information that such a direction is to contain.

Commencement Information

I106 S. 83(1)-(9) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

I107 S. 83(10) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I108 S. 83(10) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

Prohibition on disposal of land

84 Prohibition on disposal of land

(1) Subsection (2) applies where an asset transfer request is made by a community transfer body to a relevant authority.

(2) During the relevant period, the authority must not sell, lease or otherwise dispose of the land to which the request relates to any person other than the community transfer body.

(3) In subsection (2), the "relevant period" is the period beginning on the day on which the asset transfer request is made and ending on the day on which the request is disposed of.

(4) For the purposes of subsection (3), a request is disposed of—

(a) if the request is refused by the relevant authority and no appeal under section 85 or 88, or application for review under section 86 or 87, is made by the community transfer body within the time limit applicable to the making of such an appeal or review,

(b) if the request is refused after—

(i) an appeal under section 85 or 88 is determined, or

(ii) a review under section 87 is carried out,

(c) if—

(i) the request is agreed to,

(ii) no offer as mentioned in section 83(2) is made within the time limit applicable to the making of such an offer,

(iii) no appeal under section 85 is made within the time limit applicable to the making of such an appeal, and

(iv) no application for a review under section 86 or 87 is made within the time limit applicable to the making of such an application,

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(d) if—
  (i) the request is agreed to after an appeal under section 85 or 88 is determined, and
  (ii) no offer as mentioned in section 85(8) is made within the time limit applicable to the making of such an offer,

(e) if—
  (i) the request is agreed to after a review under section 86 is carried out,
  (ii) no offer as mentioned in section 83(2) is made within the time limit applicable to the making of such an offer, and
  (iii) no appeal under section 88 is made within the time limit applicable to the making of such an appeal,

(f) if—
  (i) the request is agreed to after a review under section 87 is carried out, and
  (ii) no offer as mentioned in section 83(2) is made within the time limit applicable to the making of such an offer, or

(g) if—
  (i) the request is agreed to (including after an appeal under section 85 or 88 is determined, or a review under section 86 or 87 is carried out),
  (ii) an offer as mentioned in section 83(2) or 85(8) is made within the time limit applicable to the making of such an offer, and
  (iii) subsection (5), (6), (7) or (8) applies.

(5) This subsection applies where, before the expiry of the period mentioned in paragraph (a) or (where applicable) paragraph (b) of subsection (7) of section 83, a contract is concluded on the basis of an offer as mentioned in subsection (2) of that section or in section 85(8).

(6) This subsection applies where—
  (a) the period mentioned in paragraph (a) or (where applicable) paragraph (b) of subsection (7) of section 83 expires,
  (b) no contract is concluded on the basis of an offer as mentioned in subsection (2) of that section or in section 85(8), and
  (c) an appeal under section 83(6)—
    (i) is not made within the time limit applicable to the making of such an appeal, or
    (ii) is timeously made but dismissed.

(7) This subsection applies where—
  (a) the relevant authority to whom the request is made is the Scottish Ministers,
  (b) the period mentioned in paragraph (a) or (where applicable) paragraph (b) of subsection (7) of section 83 expires, and
  (c) no contract is concluded on the basis of an offer as mentioned in subsection (2) of that section or in section 85(8).

(8) This subsection applies where—
  (a) the period mentioned in paragraph (a) or (where applicable) paragraph (b) of subsection (7) of section 83 expires,
  (b) no contract is concluded on the basis of an offer as mentioned in subsection (2) of that section or in section 85(8),

(c) an appeal under section 83(6) is allowed, and

(d) a condition mentioned in any of paragraphs (a) to (f) of subsection (9) is satisfied.

(9) The conditions are—

(a) no offer as mentioned in subsection (4) of section 90 is submitted within the period specified in the appeal decision notice under subsection (3) of that section relating to the appeal,

(b) such an offer is submitted within that period and a contract is concluded on the basis of the offer—

(i) before the expiry of the period of 28 days beginning on the day on which the offer is submitted, or

(ii) within such period as is specified in a direction under subsection (5) of that section (including such period as extended under subsection (6) of that section),

(c) no application under subsection (5) of that section is made within the time limit applicable to the making of such applications,

(d) such an application is refused,

(e) following the giving of a direction under subsection (5) of section 90 in relation to an offer as mentioned in subsection (4) of that section—

(i) the offer is withdrawn, or

(ii) the community transfer body and the relevant authority conclude a contract on terms and conditions different from those in the offer,

(f) the relevant authority is deemed, under subsection (7) of that section, to have accepted such an offer and have concluded a contract with the community transfer body.

(10) A reference in this section to—

(a) subsection (2), (6) or (7) of section 83 includes a reference to those subsections as applied—

(i) by sections 85(10), 86(9) and 87(9), and

(ii) by virtue of section 89(2),

(b) section 85 includes a reference to that section as applied by section 88(3),

(c) section 86 includes a reference to that section as applied by subsection (2) of, and modified in such application by virtue of subsection (4) of, section 89.

(11) Where, by virtue of subsection (2), a relevant authority is prevented from selling, leasing or otherwise disposing of any land, any contract by virtue of which the authority is obliged to sell, lease or otherwise dispose of the land to a person other than the community transfer body referred to in that subsection is void.

(12) Subsection (2) does not apply where, before the date on which the asset transfer request referred to in that subsection is made, the relevant authority or a person acting on behalf of the authority—

(a) has, in relation to the land to which the request relates, advertised or otherwise exposed the land for sale or lease,

(b) has, in relation to the land, entered into negotiations with another person with a view to transferring or leasing the land, or

(c) proceeds further with a proposed transfer or lease of the land which was initiated before the date on which the asset transfer request is made.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(13) The Scottish Ministers may direct that subsection (2) does not apply to such land to which an asset transfer request relates as may be specified in the direction.

Commencement Information
I109 S. 84 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

Appeals and reviews

85 Appeals

(1) Subsection (2) applies where—
- (a) an asset transfer request is refused by a relevant authority,
- (b) an asset transfer request is agreed to by a relevant authority but the decision notice relating to the request specifies material terms or conditions which differ to a significant extent from those specified in the request, or
- (c) a relevant authority does not give a decision notice relating to an asset transfer request to the community transfer body making the request within the period mentioned in paragraph (a) or (where applicable) paragraph (b) of section 82(8).

(2) The community transfer body making the request may appeal to the Scottish Ministers unless the relevant authority is—
- (a) the Scottish Ministers,
- (b) a local authority, or
- (c) a person, or a person that falls within a class of persons, specified in an order made by the Scottish Ministers for the purposes of this section.

(3) The Scottish Ministers may by regulations prescribe—
- (a) the procedure to be followed in connection with appeals under subsection (2),
- (b) the manner in which such appeals are to be conducted, and
- (c) the time limits within which such appeals must be brought.

(4) The provision that may be made by virtue of subsection (3) includes provision that the manner in which an appeal, or any stage of an appeal, is to be conducted is to be at the discretion of the Scottish Ministers.

(5) On an appeal under subsection (2), the Scottish Ministers—
- (a) may allow or dismiss the appeal,
- (b) may reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not),
- (c) must, in the circumstances mentioned in either paragraph (a) or (b) of subsection (6), issue a direction to the authority requiring the authority to take such steps, or achieve such outcomes, as are specified in the direction within such time periods as are so specified,
- (d) may, in any other circumstances, issue such a direction, including a direction relating to any aspects of the asset transfer request to which the appeal relates (whether or not the authority's decision relates to those aspects).

(6) The circumstances are—

(a) that the appeal is allowed,

(b) that any part of the decision of the relevant authority is reversed or varied to the effect that the authority is required to—

(i) transfer ownership of any land, lease any land or confer rights in respect of any land, or

(ii) agree to the asset transfer request subject to such terms and conditions as may be specified in the direction.

(7) The references in subsections (5)(b) and (6)(b) to any part of the decision includes any terms and conditions specified in the decision notice relating to the asset transfer request.

(8) A direction issued under subsection (5)(c) must require the relevant authority to issue a further decision notice—

(a) specifying the terms on which, and any conditions subject to which, the authority would be prepared to transfer ownership of the land, lease the land or (as the case may be) confer rights in respect of the land, including any terms and conditions required to be included by virtue of the direction,

(b) stating that, if the community transfer body wishes to proceed, it must submit to the authority an offer to acquire ownership of the land, lease the land or (as the case may be) assume rights in respect of the land, and

(c) specifying the period within which such an offer is to be submitted (which must be at least 6 months beginning with the date on which the further decision notice was issued).

(9) A further decision notice issued by virtue of a direction mentioned in subsection (8) replaces any decision notice relating to the asset transfer request in respect of which the appeal was made.

(10) Subsections (4) to (10) of section 83 apply in relation to a further decision notice issued by virtue of a direction mentioned in subsection (8) as they apply in relation to a decision notice referred to in that section; but as if in subsection (4) of that section—

(a) the reference to an offer such as is mentioned in subsection (2)(b) of that section were a reference to an offer such as is mentioned in subsection (8)(b) of this section, and

(b) the reference to the period specified in the decision notice under subsection (2)(c) of that section were a reference to the period specified in a further decision notice by virtue of subsection (8)(c) of this section.

Commencement Information

I110 S. 85(1)(2)(5)-(9) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

I111 S. 85(3)(4)(10) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I112 S. 85(3)(4)(10) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

86 Review by local authority

(1) Subsection (2) applies in a case where—

(a) an asset transfer request is made to a local authority by a community transfer body, and

(b) the authority—

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(i) refuses the request,

(ii) agrees to the request but the decision notice relating to the request specifies material terms or conditions which differ to a significant extent from those specified in the request, or

(iii) does not give a decision notice relating to the request to the community transfer body within the period mentioned in paragraph (a) or (where applicable) paragraph (b) of section 82(8).

(2) On an application made by the community transfer body, the local authority must carry out a review of the case.

(3) The Scottish Ministers may by regulations prescribe—

(a) the procedure to be followed in connection with reviews under subsection (2),

(b) the manner in which such reviews are to be carried out, and

(c) the time limits within which applications for reviews must be brought.

(4) The provision that may be made by virtue of subsection (3) includes provision that the manner in which a review, or any stage of a review, is to be carried out by a local authority is to be at the discretion of the authority.

(5) A local authority may, in relation to a decision reviewed under subsection (2)—

(a) confirm its decision,

(b) modify its decision, or any part of its decision (including any terms and conditions specified in the decision notice to which the asset transfer request relates), or

(c) substitute a different decision for its decision.

(6) Following a review under subsection (2), the local authority must—

(a) issue a decision notice as respects the asset transfer request to which the review relates, and

(b) provide in the decision notice the reasons for its decision.

(7) A decision notice issued under subsection (6)—

(a) replaces any decision notice relating to the asset transfer request in respect of which the review was carried out, and

(b) must be issued within—

(i) a period prescribed in regulations made by the Scottish Ministers, or

(ii) such longer period as may be agreed between the local authority and the community transfer body that made the asset transfer request.

(8) Subsections (3) to (5) of section 82 apply in relation to a decision relating to an asset transfer request in a review under subsection (2) of this section as they apply in relation to a decision relating to the request under subsection (2) of that section.

(9) Section 83 applies in relation to a decision to agree to an asset transfer request (including a decision to confirm such an agreement) following a review under subsection (2) as it applies in relation to a decision mentioned in subsection (1) of that section.

(10) In section 56 of the Local Government (Scotland) Act 1973 (arrangements for the discharge of functions by local authorities), after subsection (6A) insert—

"(6B) The duty to carry out a review of a case imposed on an authority under section 86(2) of the Community Empowerment (Scotland) Act 2015 (reviews

by local authorities of asset transfer requests) must be discharged only by the authority or a committee or sub-committee of the authority; and accordingly no such committee or sub-committee may arrange for the discharge under subsection (2) of the duty by an officer of the authority.

(6C) In subsection (6B), the reference to section 86(2) of the Community Empowerment (Scotland) Act 2015 includes a reference to that section as applied by subsection (2) of, and modified in such application by virtue of subsection (4) of, section 89 of that Act.”.

Commencement Information

I113 S. 86(1)(2)(5)(6)(7)(a)(b)(ii)(8)(10) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

I114 S. 86(3)(4)(7)(b)(i)(9) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I115 S. 86(3)(4)(7)(b)(i)(9) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

87 Review of decisions by the Scottish Ministers

(1) Subsection (2) applies in a case where—

(a) an asset transfer request is made to the Scottish Ministers by a community transfer body, and

(b) the Scottish Ministers—

(i) refuse the request,

(ii) agree to the request but the decision notice relating to the request specifies material terms or conditions which differ to a significant extent from those specified in the request, or

(iii) do not give a decision notice relating to the request to the community transfer body within the period mentioned in paragraph (a) or (where applicable) paragraph (b) of section 82(8).

(2) On an application made by the community transfer body, the Scottish Ministers must carry out a review of the case.

(3) The Scottish Ministers may by regulations make provision about reviews carried out under subsection (2) including, in particular, provision in relation to—

(a) the procedure to be followed in connection with reviews,

(b) the appointment of such persons, or persons of such description, as may be specified in the regulations for purposes connected with the carrying out of reviews,

(c) the functions of persons mentioned in paragraph (b) in relation to reviews (including a function of reporting to the Scottish Ministers),

(d) the manner in which reviews are to be conducted, and

(e) the time limits within which applications for reviews must be brought.

(4) The provision that may be made by virtue of subsection (3) includes provision that—

(a) the manner in which a person appointed by virtue of paragraph (b) of that subsection carries out the person's functions in relation to a review, or any stage of a review, is to be at the discretion of the person,

(b) the manner in which a review, or any stage of a review, is to be carried out by the Scottish Ministers is to be at the discretion of the Scottish Ministers.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(5) Having regard to any report they receive by virtue of subsection (3)(c), the Scottish Ministers may, in relation to a decision reviewed under subsection (2)—
  (a) confirm the decision,
  (b) modify the decision, or any part of the decision (including any terms and conditions specified in the decision notice to which the asset transfer request relates), or
  (c) substitute a different decision for the decision.

(6) Following a review under subsection (2), the Scottish Ministers must—
  (a) issue a decision notice as respects the asset transfer request to which the review relates, and
  (b) provide in the decision notice the reasons for their decision.

(7) A decision notice issued under subsection (6) replaces any decision notice relating to the asset transfer request in respect of which the review was carried out.

(8) Subsections (3) to (5) of section 82 apply in relation to a decision relating to an asset transfer request in a review under subsection (2) of this section as they apply in relation to a decision relating to the request under subsection (2) of that section.

(9) Section 83 applies in relation to a decision to agree to an asset transfer request (including a decision to confirm such an agreement) following a review under subsection (2) as it applies in relation to a decision mentioned in subsection (1) of that section.

Commencement Information
I116 S. 87(1)(2)(5)-(8) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**
I117 S. 87(3)(4)(9) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**
I118 S. 87(3)(4)(9) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

88 Appeals from reviews under section 86

(1) Subsection (2) applies in a case where, following a review carried out under section 86(2), a local authority—
  (a) refuses the asset transfer request to which the review relates,
  (b) agrees to the request but the decision notice issued under section 86(6) specifies material terms or conditions which differ to a significant extent from those specified in the request, or
  (c) does not issue the decision notice within the prescribed period mentioned in sub-paragraph (i) or (where applicable) (ii) of paragraph (b) of subsection (7) of section 86.

(2) The community transfer body making the asset transfer request may appeal to the Scottish Ministers.

(3) Subsections (3) to (10) of section 85 apply to an appeal under subsection (2) of this section as they apply to an appeal under subsection (2) of that section, subject to the modification that any references to the relevant authority in the subsections so applied are to be read as references to the local authority mentioned in subsection (1) of this section.

(4) In subsection (1), references to section 86 include references to the provisions of that section as applied by subsection (2) of, and modified in such application by virtue of subsection (4) of, section 89.

Commencement Information

I119 S. 88 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

89 Decisions by relevant authority specified under section 85(2)(c): reviews

(1) Subsection (2) applies in a case where—

(a) an asset transfer request is made to a relevant authority specified in an order under section 85(2)(c), and

(b) the relevant authority—

(i) refuses the request,

(ii) agrees to the request but the decision notice relating to the request specifies material terms or conditions which differ to a significant extent from those specified in the request, or

(iii) does not give a decision notice relating to the request to the community transfer body within the period mentioned in paragraph (a) or (where applicable) paragraph (b) of section 82(8).

(2) Subsections (2) to (9) of section 86 apply to the case mentioned in subsection (1) (and, for the purposes of that application, references in that section to any of those subsections are to be read as references to those subsections as so applied and modified in such application by virtue of subsection (4)).

(3) Subsection (2) is subject to subsection (4).

(4) The Scottish Ministers may by order—

(a) make provision for subsections (2) to (9) of section 86 to apply as mentioned in subsection (2) subject to such modifications (if any) as they think appropriate,

(b) specify, in relation to an application for a review under section 86(2) applied as mentioned in subsection (2)—

(i) the local authority to which the application is to be made,

(ii) factors determining the local authority to which the application is to be made.

Commencement Information

I120 S. 89(1) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

I121 S. 89(2)-(4) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I122 S. 89(2)-(4) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

90 No concluded contract: appeals

(1) Subsections (2) to (11) apply where—

(a) no contract is concluded as mentioned in subsection (5) of section 83 between a relevant authority and a community transfer body, and

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(b) the community transfer body appeals under subsection (6) of that section.

(2) The Scottish Ministers may allow or dismiss the appeal.

(3) If the Scottish Ministers allow the appeal, they must issue a notice (an "appeal decision notice") that specifies—

(a) sufficient and precise details of the terms and conditions of an offer which may be made by the community transfer body to the relevant authority in relation to the asset transfer request made by the body, and

(b) the period within which any such offer is to be submitted.

(4) Subsection (5) applies where—

(a) the community transfer body submits an offer to the relevant authority containing all and only those terms and conditions the details of which are specified in the appeal decision notice,

(b) the offer is submitted within the period so specified,

(c) no contract is concluded on the basis of the offer before the end of the period of 28 days beginning with the day on which the offer is submitted, and

(d) the offer is not withdrawn before the expiry of that 28 day period.

(5) The Scottish Ministers may, on an application made by the community transfer body, give the relevant authority a direction requiring the authority to conclude a contract with the community transfer body on the terms and conditions the details of which are specified in the appeal decision notice within such period as may be specified in the direction.

(6) The Scottish Ministers may, on more than one occasion, extend the period mentioned in subsection (5) (including that period as extended by a direction given under this subsection) by giving a further direction to the relevant authority.

(7) Where a direction under subsection (5) is given to a relevant authority, and the authority does not within the period specified in the direction (or that period as extended under subsection (6)) conclude the contract as mentioned in subsection (5), the authority is deemed to have accepted the offer and accordingly to have concluded a contract with the community transfer body.

(8) Subsection (7) does not apply where—

(a) the community transfer body and the relevant authority have entered into a contract on terms and conditions different from those the details of which are specified in the appeal decision notice, or

(b) the offer is withdrawn before the end of the period specified in the direction (or that period as extended by a direction under subsection (6)).

(9) The asset transfer request in relation to which an appeal mentioned in subsection (1) is made is to be treated, for the purposes of this Part (other than section 93), as if it had not been made if the appeal is allowed but—

(a) the community transfer body does not submit an offer as mentioned in subsection (4)(a),

(b) the community transfer body does not submit such an offer within the period specified in the appeal decision notice,

(c) the community transfer body has not, before the expiry of any time limit for making applications under subsection (5) by virtue of regulations under subsection (14), applied for a direction under subsection (5), or

(d) any application for such a direction is refused.

(10) Where the appeal is dismissed by the Scottish Ministers, the decision to agree to the asset transfer request in relation to which the appeal is made is of no effect (but that is not to be taken to mean that the asset transfer request is to be treated as having been refused for the purposes of any appeal or review under this Part).

(11) In subsection (1), references to any subsections of section 83 include references to those subsections as applied—

(a) by sections 85(10), 86(9) and 87(9), and

(b) by virtue of section 88(3).

(12) The Scottish Ministers may by regulations make provision about appeals under section 83(6) including, in particular, provision in relation to—

(a) the procedure to be followed in connection with appeals,

(b) the appointment of such persons, or persons of such description, as may be specified in the regulations for purposes connected with appeals,

(c) the functions of persons mentioned in paragraph (b) in relation to appeals (including a function of reporting to the Scottish Ministers),

(d) the manner in which appeals are to be conducted, and

(e) the time limits within which appeals must be brought.

(13) The provision that may be made by virtue of subsection (12) includes provision that—

(a) the manner in which a person appointed by virtue of paragraph (b) of that subsection carries out the person's functions in relation to an appeal, or any stage of an appeal, is to be at the discretion of the person,

(b) the manner in which an appeal, or any stage of an appeal, is to be carried out by the Scottish Ministers is to be at the discretion of the Scottish Ministers.

(14) The Scottish Ministers may by regulations make provision about applications under subsection (5) including, in particular, provision in relation to—

(a) the form of, and procedure for making, such applications,

(b) the time limits within which such applications must be brought.

Commencement Information

I123 S. 90(1)-(11) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

I124 S. 90(12)-(14) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I125 S. 90(12)-(14) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

91 Effect of offers on appeals and reviews

(1) Subsection (2) applies where—

(a) a community transfer body makes an asset transfer request to a relevant authority,

(b) the relevant authority agrees to the request as mentioned in section 85(1)(b), 86(1)(b)(ii), 87(1)(b)(ii) or 88(1)(b),

(c) the community transfer body makes an offer as mentioned in section 83(2), and

(d) the offer has not been withdrawn.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(2) The community transfer body may not—
- (a) make an appeal under section 85 or 88, or
- (b) apply for a review under section 86 or 87.

(3) Where an offer as mentioned in section 83(2) is made by a community transfer body after the body has made an appeal, or applied for a review, as mentioned in subsection (2), the appeal or (as the case may be) application for review is to be treated as having been withdrawn by the body.

(4) A reference in this section to—
- (a) section 83(2) includes a reference to that section as applied—
  - (i) by section 86(9) and 87(9), and
  - (ii) by virtue of section 89(2),
- (b) section 85 includes a reference to that section as applied by section 88(3),
- (c) section 86 includes a reference to that section as applied by subsection (2) of, and modified in such application by virtue of subsection (4) of, section 89.

Commencement Information
I126 S. 91 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

Disapplication of certain lease restrictions

92 Disapplication of restrictions in lease of land to relevant authority

(1) This section applies where—
- (a) land is leased to a relevant authority,
- (b) an asset transfer request is made to the authority by a community transfer body for the authority to—
  - (i) lease the land to the body, or
  - (ii) confer a right of occupancy on the body in respect of the land,
- (c) the land is leased to the relevant authority by another relevant authority or by a company that is wholly owned by another relevant authority, and
- (d) no other person is entitled to occupy the land to which the request relates (whether by virtue of a sublease by the authority or otherwise).

(2) Any restrictions in the lease of the land to which the request relates such as are mentioned in subsection (3) do not apply as between the relevant authority and the person from whom the authority leases the land.

(3) The restrictions are any restrictions—
- (a) on the power of the relevant authority to sublet the land,
- (b) on the power of the authority to share occupancy of the land,
- (c) relating to how the land may be used by the authority or any other occupier of the land.

(4) Nothing in this section affects any restrictions in the lease of the land to the relevant authority on the power of the authority to assign or transfer rights and liabilities under the lease.

(5) If the relevant authority leases the land to, or confers a right of occupancy in respect of the land on, a community transfer body, the authority continues to be subject to any obligations under the lease of the land to the authority.

Commencement Information
I127 S. 92 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

Power to decline subsequent requests

93 Power to decline certain asset transfer requests

(1) Subsection (2) applies where—
- (a) an asset transfer request (a "new request") relating to land is made to a relevant authority,
- (b) the new request relates to matters that are the same, or substantially the same, as matters contained in a previous asset transfer request (a "previous request") made in relation to the land,
- (c) the previous request was made in the period of two years ending with the date on which the new request is made, and
- (d) the authority refused the previous request (whether following an appeal or not).

(2) The relevant authority may decline to consider the new request.

(3) Where a new request is declined to be considered under subsection (2), that is not to be treated as a refusal of the new request for the purposes of—
- (a) an appeal under section 85 (including the provisions of that section as applied by section 88(3)), or
- (b) a review under section 86 (including the provisions of that section as applied by subsection (2) of, and modified in such application by virtue of subsection (4) of, section 89) or section 87.

(4) For the purposes of subsection (1)(b), a new request relates to matters that are the same, or substantially the same, as matters contained in a previous request only if both requests, in relation to the land to which they relate, seek (or sought)—
- (a) transfer of ownership of the land,
- (b) lease of the land, or
- (c) the same or substantially the same rights in respect of the land.

(5) For the purposes of this section, it is irrelevant whether the body making a new request is the same body as, or a different body from, that which made the previous request.

Commencement Information
I128 S. 93 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

Registers of relevant authorities' land

94 Duty to publish register of land

(1) Each relevant authority must establish and maintain a register of land mentioned in subsection (2).

(2) The land is land which, to the best of the authority's knowledge and belief, is owned or leased by the authority.

(3) Every relevant authority must—

(a) make arrangements to enable members of the public to inspect, free of charge, its register of land at reasonable times and at such places as the authority may determine, and

(b) make its register of land available on a website, or by other electronic means, to members of the public.

(4) The Scottish Ministers may by regulations specify land, or descriptions of land, that a relevant authority need not include in its register of land.

(5) Relevant authorities must have regard to any guidance issued by the Scottish Ministers in relation to the duties imposed on the authorities under this section.

(6) Before issuing such guidance, the Scottish Ministers must consult the relevant authorities.

(7) The omission of any land owned or leased by a relevant authority from the authority's register of land does not prevent an asset transfer request being made in respect of the land.

Commencement Information

I129 S. 94(1)-(3)(7) in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

I130 S. 94(4)-(6) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I131 S. 94(4)-(6) in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

Annual reports

95 Annual reports

(1) A relevant authority must publish an asset transfer report for each reporting year.

(2) An asset transfer report is a report setting out, in respect of the reporting year—

(a) the number of asset transfer requests the relevant authority received,

(b) the number of such requests which the relevant authority—

(i) agreed to, and

(ii) refused,

(c) the number of such requests made to the relevant authority which resulted in—

(i) a transfer of ownership of land to a community transfer body,

(ii) a lease of land to such a body,

(iii) rights in respect of land being conferred on such a body,

(d) the number of appeals under section 85 relating to such requests made to the relevant authority that have—
  (i) been allowed,
  (ii) been dismissed,
  (iii) resulted in any part of the decision of the authority being varied or reversed,

(e) in relation to a decision of the relevant authority reviewed under section 86 or 87, the number of such decisions that have been—
  (i) confirmed,
  (ii) modified,
  (iii) substituted by a different decision, and

(f) any action taken by the relevant authority during the reporting year—
  (i) to promote the use of asset transfer requests,
  (ii) to support a community transfer body in the making of an asset transfer request.

(3) An asset transfer report is to be published under subsection (1) no later than 30 June following the end of the reporting year to which it relates.

(4) In this section, "reporting year" means a period of one year beginning on 1 April.

(5) A reference in this section to—
  (a) section 85 includes a reference to that section as applied by section 88(3),
  (b) section 86 includes a reference to that section as applied by subsection (2) of, and modified in such application by virtue of subsection (4) of, section 89.

Commencement Information
I132 S. 95 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)** (with art. 4)

Guidance

96 Guidance

(1) A relevant authority must have regard to any guidance issued by the Scottish Ministers about the carrying out of functions by the authority under this Part.

(2) Before issuing such guidance, the Scottish Ministers must consult such persons as they think fit.

Commencement Information
I133 S. 96 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**
I134 S. 96 in force at 23.1.2017 in so far as not already in force by S.S.I. 2016/363, **art. 3(b)**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

Interpretation of Part 5

97 Interpretation of Part 5

(1) In this Part—

"asset transfer request" has the meaning given by section 79(2),

"charity" means a body entered in the Scottish Charity Register,

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

"community-controlled body" has the meaning given by section 19,

"community transfer body" has the meaning given by section 77(1),

"decision notice" is to be construed in accordance with section 82(7),

"equal opportunities" and "equal opportunity requirements" have the same meanings as in Section L2 (equal opportunities) of Part 2 of Schedule 5 to the Scotland Act 1998,

"relevant authority" has the meaning given by section 78,

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

(2) References in this Part to land include references to part of the land.

Commencement Information
I135 S. 97 in force at 13.11.2015 by S.S.I. 2015/358, art. 2, **Sch.**

PART 6

DELEGATION OF FORESTRY COMMISSIONERS' FUNCTIONS

98 Meaning of "community body" in Forestry Act 1967

(1) Section 7C of the Forestry Act 1967 (delegation of functions under section 7B: community bodies) is amended as follows.

(2) In subsection (1)—

(a) for the words from "company", where it first occurs, to "include" substitute " body corporate having a written constitution that includes ",

(b) for the word "company", wherever it appears in paragraphs (a) to (e), substitute " body ",

(c) after paragraph (d) insert—

"(da) provision that membership of the body is open to any member of the community,

(db) a statement of the body's aims and purposes, including the promotion of a benefit for the community,", and

(d) in paragraph (e), for "and the auditing of its accounts" substitute ", and

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(f) provision that any surplus funds or assets of the body are to be applied for the benefit of the community.”.

(3) In subsection (2), for “(d)” substitute “ (db) ”.

(4) Subsections (4) to (6) are repealed.

Commencement Information
I136 S. 98 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(c)**

PROSPECTIVE

PART 7

FOOTBALL CLUBS

99 Facilitation of supporter involvement in football clubs

(1) The Scottish Ministers may by regulations make provision—
(a) to facilitate the involvement of the supporters of a football club in decisions affecting the management, operation or governance of the club (see section 100),
(b) to facilitate supporter ownership of football clubs (for example by conferring a right to buy, see section 101).

(2) Regulations under this section may provide for the creation of rights or interests, or the imposition of liabilities or conditions, in relation to property (or an interest in property) of any description.

(3) Before making regulations under this section, the Scottish Ministers must consult—
(a) such body or bodies as appear to them to be representative of the interests of football clubs, the leagues in which they play, their players and supporters, and
(b) such other persons as they consider appropriate.

100 Supporter involvement in decision-making

Regulations made under section 99(1)(a) may, in particular, make provision for or in connection with—
(a) the types of football club in relation to which the regulations are to apply,
(b) the steps that a person must take in order to be considered a supporter of a particular football club for the purposes of the regulations,
(c) the provision of information to supporters about the football club, including details about—
(i) how the club makes decisions affecting its management, operation or governance, and
(ii) how, and by whom, the club and any property connected with it is owned or held,

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(d) the manner in which the supporters of a football club or a body or association representing the interests of such supporters are to be involved in decisions affecting the management, operation or governance of the club,

(e) the kinds of decisions affecting the management, operation or governance of a football club in respect of which the supporters of the club are to be involved,

(f) the consequences for a football club, or a person responsible for its management, operation or governance, of taking a decision affecting the management, operation or governance of the club (or otherwise acting) without involving the supporters of the club.

101 Supporter ownership

Regulations made under section 99(1)(b) may, in particular, make provision for or in connection with—

(a) the types of football club in relation to which the regulations are to apply,

(b) the things which the regulations may facilitate ownership of, including, in particular—

(i) any entity which owns, operates or controls a football club,

(ii) a shareholding or other interest in such an entity,

(iii) any asset (including any right or liability) of the football club or such an entity,

(c) the valuation of anything mentioned in paragraph (b),

(d) the circumstances which must exist, or conditions which must be satisfied, before any rights conferred under the regulations may be exercised,

(e) the steps that must be taken by supporters, or a body or association representing the interests of supporters, to exercise any rights conferred by the regulations,

(f) the provision of information to supporters about the football club, including details about how, and by whom, the club and any property connected with it is owned or held,

(g) requiring, restricting or preventing the sale or transfer of anything which is, or may become, subject to the rights conferred by the regulations,

(h) the consequences of selling or transferring anything which is, or may become, subject to the rights conferred by the regulations otherwise than in accordance with the regulations (including, in particular, reducing such a sale or transfer),

(i) the rights of creditors of the football club and other persons with an interest in the club,

(j) the resolution of disputes in connection with any rights conferred under the regulations,

(k) appeals in connection with any rights conferred under the regulations,

(l) the circumstances in which any right conferred under the regulations is or may be extinguished.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

PART 8

COMMON GOOD PROPERTY

Registers

VALID FROM 27/06/2018

102 Common good registers

(1) Each local authority must establish and maintain a register of property which is held by the authority as part of the common good (a "common good register").

(2) Before establishing a common good register, a local authority must publish a list of property that it proposes to include in the register.

(3) The list may be published in such a way as the local authority may determine.

(4) On publishing a list under subsection (2), the local authority must—
- (a) notify the bodies mentioned in subsection (5) of the publication, and
- (b) invite those bodies to make representations in respect of the list.

(5) The bodies are—
- (a) any community council established for the local authority's area, and
- (b) any community body of which the authority is aware.

(6) In establishing a common good register, a local authority must have regard to—
- (a) any representations made under subsection (4)(b) by a body mentioned in subsection (5), and
- (b) any representations made by other persons in respect of the list published under subsection (2).

(7) Representations as mentioned in subsection (6) may in particular be made in relation to—
- (a) whether property proposed to be included in the register is part of the common good,
- (b) the identification of other property which, in the opinion of the body or person making the representation, is part of the common good.

(8) A local authority must—
- (a) make arrangements to enable members of the public to inspect, free of charge, its common good register at reasonable times and at such places as the authority may determine, and
- (b) make its common good register available on a website, or by other electronic means, to members of the public.

103 Guidance about common good registers

(1) In carrying out any of the duties imposed on it by section 102, a local authority must have regard to any guidance issued by the Scottish Ministers in relation to the duties.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(2) Before issuing any such guidance, the Scottish Ministers must consult—
- (a) local authorities,
- (b) community councils, and
- (c) such community bodies as the Scottish Ministers think fit.

Commencement Information
I137 S. 103 in force at 13.11.2015 by S.S.I. 2015/358, art. 2, **Sch.**

Disposal and use

VALID FROM 27/06/2018

104 Disposal and use of common good property: consultation

(1) Subsection (2) applies where a local authority is considering—
- (a) disposing of any property which is held by the authority as part of the common good, or
- (b) changing the use to which any such property is put.

(2) Before taking any decision to dispose of, or change the use of, such property the local authority must publish details about the proposed disposal or, as the case may be, the use to which the authority proposes to put the property.

(3) The details may be published in such a way as the local authority may determine.

(4) On publishing details about its proposals under subsection (2), the local authority must—
- (a) notify the bodies mentioned in subsection (5) of the publication, and
- (b) invite those bodies to make representations in respect of the proposals.

(5) The bodies are—
- (a) where the local authority is Aberdeen City Council, Dundee City Council, the City of Edinburgh Council or Glasgow City Council, any community council established for the local authority's area,
- (b) where the local authority is any other council, any community council whose area consists of or includes the area, or part of the area, to which the property mentioned in subsection (1) related prior to 16 May 1975, and
- (c) any community body that is known by the authority to have an interest in the property.

(6) In deciding whether or not to dispose of any property held by a local authority as part of the common good, or to change the use to which any such property is put, the authority must have regard to—
- (a) any representations made under subsection (4)(b) by a body mentioned in subsection (5), and
- (b) any representations made by other persons in respect of its proposals published under subsection (2).

105 Disposal etc. of common good property: guidance

(1) In carrying out any of the duties imposed on it by section 104, a local authority must have regard to any guidance issued by the Scottish Ministers in relation to the duties.

(2) A local authority must have regard to any guidance issued by the Scottish Ministers in relation to the management and use of property that forms part of the common good.

(3) Before issuing any guidance as mentioned in subsection (1) or (2), the Scottish Ministers must consult—
- (a) local authorities,
- (b) community councils, and
- (c) such community bodies as the Scottish Ministers think fit.

Commencement Information
I138 S. 105 in force at 13.11.2015 by S.S.I. 2015/358, art. 2, **Sch.**

Interpretation of Part 8

106 Interpretation of Part 8

In this Part—

"community bodies", in relation to a local authority, means bodies, whether or not formally constituted, established for purposes which consist of or include that of promoting or improving the interests of any communities (however described) resident or otherwise present in the area of the local authority,

"community council" means a community council established by a local authority under Part 4 of the Local Government (Scotland) Act 1973.

Commencement Information
I139 S. 106 in force at 13.11.2015 by S.S.I. 2015/358, art. 2, **Sch.**

PART 9

ALLOTMENTS

Key definitions

107 Meaning of "allotment"

In this Part, "allotment" means land that—
- (a) is owned or leased by a local authority,
- (b) is leased or intended for lease by a person from the authority, and
- (c) is used or intended for use—
  - (i) wholly or mainly for the cultivation of vegetables, fruit, herbs or flowers, and

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(ii) otherwise than with a view to making a profit.

Commencement Information
I140 S. 107 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

108 Meaning of "allotment site"

In this Part, "allotment site"—

(a) means land consisting wholly or partly of allotments, and

(b) includes other land owned or leased by a local authority that may be used by tenants of allotments in connection with their use of allotments.

Commencement Information
I141 S. 108 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Request and offer to lease allotment

109 Request to lease allotment

(1) Any person may make a request to the local authority in whose area the person resides—

(a) to lease an allotment from the authority, or

(b) to sublease an allotment from a tenant of the authority.

(2) A request must be made in writing and include—

(a) the name and address of the person making the request, and

(b) such other information as may be prescribed.

(3) The person making the request must, if the area of the allotment sought is less than 250 square metres, specify the area in the request.

(4) Where the person making the request is a disabled person, the request may include information about the person's needs on the grounds of disability relating to—

(a) access to an allotment site or an allotment,

(b) possible adjustments to an allotment site or an allotment.

(5) A request may be made to a local authority even if the authority does not own or lease any allotments.

(6) A request may be made jointly by two or more persons if each person resides in the area of the local authority to which the request is made.

(7) The local authority must give written notice to a person who made a request under subsection (1) confirming receipt of the request before the expiry of the period of 14 days beginning with the date on which the request is received by the authority.

(8) Before making regulations under subsection (2)(b), the Scottish Ministers must consult—

(a) local authorities, and

(b) any other person appearing to the Scottish Ministers to have an interest.

Commencement Information
I142 S. 109 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with arts. 12, 14)

110 Offer to lease allotment

(1) Subsections (2) and (3) apply where a person specifies an allotment of an area of less than 250 square metres (a "specified area") in a request to a local authority under section 109(1).

(2) If the local authority offers to grant a lease of an allotment of the specified area to the person, the request is to be treated as having been agreed to for the purpose of section 111(3)(a)(i).

(3) If the local authority offers to grant a lease of an allotment that is not of the specified area to the person, the request is to be treated as not having been agreed to for that purpose unless the person accepts the offer.

(4) Subsections (5) and (6) apply where a person does not specify an allotment of an area of less than 250 square metres in a request to a local authority under section 109(1).

(5) If the local authority offers to grant a lease of an allotment of an area of approximately 250 square metres to the person, the request is to be treated as having been agreed to for the purpose of section 111(3)(a)(i).

(6) If the local authority offers to grant a lease of an allotment that is not of an area of approximately 250 square metres to the person, the request is to be treated as not having been agreed to for that purpose unless the person accepts the offer.

(7) In subsections (2), (3), (5) and (6), references to the local authority offering to grant a lease include references to a tenant of the local authority offering to grant a sublease.

Commencement Information
I143 S. 110 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Local authority functions

111 Duty to maintain list

(1) Each local authority must establish and maintain a list of persons who make a request to it under section 109(1).

(2) The list may be established and maintained by the local authority in such form as the authority thinks fit.

(3) The duty to maintain a list under subsection (1) includes a duty to remove from the list—

(a) the name of any person—

(i) whose request under section 109(1) is agreed to, or

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(ii) who withdraws such a request before it is agreed to, and

(b) any other information relating to any such person.

Commencement Information

I144 S. 111 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 12)

112 Duty to provide allotments

(1) Where subsection (2) or (3) applies, each local authority must take reasonable steps to ensure—

(a) that the number of persons entered in the list maintained under section 111(1) is no more than one half of the total number of allotments owned and leased by the authority, and

(b) that a person entered in the list does not remain in the list for a continuous period of more than 5 years.

(2) This subsection applies where—

(a) on the commencement date, a local authority does not own or lease any allotments, and

(b) at any time after that date, the number of persons entered in the list mentioned in subsection (1) is 15 or more.

(3) This subsection applies where—

(a) on the commencement date, a local authority owns or leases allotments, and

(b) at any time after that date, the number of persons entered in the list mentioned in subsection (1) is one or more.

(4) A local authority must, in taking reasonable steps as mentioned in subsection (1), have regard to the desirability of making available allotments that are reasonably close to the residence of persons in the list mentioned in that subsection.

(5) The Scottish Ministers may by order amend subsection (1) by substituting for the proportion for the time being specified there such other proportion as they think fit.

(6) The Scottish Ministers may by order amend subsection (2) or (3) by substituting for the number of persons for the time being specified there such other number of persons as they think fit.

(7) Where a request under section 109(1) is made jointly by two or more persons, the persons making the request are to be treated as one person for the purposes of calculating the number of persons referred to in—

(a) subsection (1),

(b) subsection (2) (including that subsection as amended by an order under subsection (6)),

(c) subsection (3) (including that subsection as amended by an order under subsection (6)),

(d) section 121(2)(j) or (p).

(8) In this section, “commencement date” means the date on which this section comes into force.

Commencement Information
I145 S. 112 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 15)

113 Duty of tenant of allotment site to grant sublease

(1) Subsection (2) applies where an allotment site is let by a local authority.

(2) If the local authority requests that the tenant of the allotment site grant a sublease of an unoccupied allotment on the site to a person entered in the list maintained under section 111(1), the tenant must grant such a sublease.

Commencement Information
I146 S. 113 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

114 Access to allotment and allotment site

(1) Where a local authority leases an allotment to a tenant, it must provide reasonable access to the allotment and any allotment site on which the allotment is situated.

(2) Where a local authority leases an allotment site to a tenant, it must provide reasonable access to the allotment site and allotments on the site.

Commencement Information
I147 S. 114 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

115 Allotment site regulations

(1) Each local authority must make regulations about allotment sites in its area.

(2) **[**[F1]A local authority must make its first regulations under subsection (1)**]** before the expiry of the period of two years beginning with the date on which this section comes into force **[**[F2], and those regulations must make provision for each allotment site in the area of the local authority.**]**

(3) Regulations under subsection (1) must in particular include provision for or in connection with—
- (a) allocation of allotments,
- (b) rent, including a method of determining fair rent that takes account of—
  - (i) services provided by, or on behalf of, the local authority to tenants of allotments,
  - (ii) the costs of providing those services, and
  - (iii) circumstances that affect, or may affect, the ability of a person to pay the rent payable under the lease of an allotment,
- (c) cultivation of allotments,
- (d) maintenance of allotments,
- (e) maintenance of allotment sites,

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(f) buildings or other structures that may be erected on allotments, the modifications that may be made to such structures and the materials that may or may not be used in connection with such structures,

(g) the keeping of livestock (including poultry), and

(h) landlord inspections.

(4) Regulations under subsection (1) may in particular include provision for or in connection with—

(a) buildings or other structures that may be erected on land mentioned in paragraph (b) of the definition of "allotment site" in section 108, the modifications that may be made to such structures and the materials that may or may not be used in connection with such structures,

(b) access by persons (other than allotment tenants) and domestic animals,

(c) liability for loss of or damage to property,

(d) acceptable use of allotments and allotment sites,

(e) sale of surplus produce.

(5) Regulations under subsection (1) may make different provision for different areas or different allotment sites.

Textual Amendments

F1 Words in s. 115(2) substituted (16.3.2018) by The Community Empowerment (Scotland) Act 2015 (Supplementary and Consequential Provisions) Order 2018 (S.S.I. 2018/97), arts. 1, **2(2)(a)**

F2 Words in s. 115(2) inserted (16.3.2018) by The Community Empowerment (Scotland) Act 2015 (Supplementary and Consequential Provisions) Order 2018 (S.S.I. 2018/97), arts. 1, **2(2)(b)**

Commencement Information

I148 S. 115 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

116 Allotment site regulations: further provision

(1) Before making regulations under section 115(1), a local authority must consult persons appearing to the local authority to have an interest.

(2) At least one month before making regulations under section 115(1), a local authority must—

(a) place an advertisement in at least one newspaper circulating in its area giving notice of—

(i) the authority's intention to make the regulations,

(ii) the general purpose of the proposed regulations,

(iii) the place where a copy of the proposed regulations may be inspected,

(iv) the fact that any person may make written representations in relation to the proposed regulations,

(v) the time within which a person may make representations, and

(vi) the address to which any representations must be sent, and

(b) make copies of the proposed regulations available for inspection by the public without payment—

(i) at its offices, and

(ii) if it considers it practicable, at the allotment site to which the regulations are to apply.

(3) Any person may make a representation in writing in relation to the proposed regulations no later than one month after the last date on which notice under subsection (2)(a) is given.

(4) Before making the regulations, the authority must—

(a) offer any person who makes a representation under subsection (3) the opportunity to make further representations in person, and

(b) take account of any representations received by it by virtue of subsection (3) and paragraph (a).

(5) The regulations are **[**[F3]made**]** by being signed by the proper officer of the authority.

(6) The regulations—

(a) come into force

[[F4](i) in the case of the first regulations made by a local authority under section 115(1), on the day after the day on which they are made,

(ii) in any other case, on the day after the day on which they are made or on such later day as may be specified in the regulations**]**, and

(b) continue in force unless revoked.

(7) Subsections (1) to (4) apply in relation to—

(a) a proposed amendment,

(b) a proposed revocation,

(c) an amendment, or

(d) a revocation,

of regulations under section 115(1) as they apply in relation to proposed regulations, or (as the case may be) the making of proposed regulations, under that section.

(8) Subsections (5) and (6) apply in relation to an amendment, or a revocation, of regulations under section 115(1) as they apply in relation to regulations under that section **[**[F5]but—

(a) sub-paragraph (i) of paragraph (a) of subsection (6) does not apply and sub-paragraph (ii) of that paragraph applies in relation to any such amendment or revocation, and

(b) subsection (6)(b) does not apply in relation to such a revocation.**]**

(9) A copy of the regulations must be displayed at the entrance to an allotment site to which they apply.

(10) A local authority must provide a copy of the regulations without charge to any person following a request.

(11) In the case where an allotment site is leased by a local authority, the regulations are subject to any provision of such a lease which is contrary to, or otherwise inconsistent with, the regulations.

Textual Amendments

F3 Word in s. 116(5) substituted (16.3.2018) by The Community Empowerment (Scotland) Act 2015 (Supplementary and Consequential Provisions) Order 2018 (S.S.I. 2018/97), arts. 1, **2(3)(a)**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

F4 Words in s. 116(6)(a) substituted (16.3.2018) by The Community Empowerment (Scotland) Act 2015 (Supplementary and Consequential Provisions) Order 2018 (S.S.I. 2018/97), arts. 1, **2(3)(b)**

F5 Words in s. 116(8) substituted (16.3.2018) by The Community Empowerment (Scotland) Act 2015 (Supplementary and Consequential Provisions) Order 2018 (S.S.I. 2018/97), arts. 1, **2(3)(c)**

Commencement Information

I149 S. 116 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

117 Disposal etc. of allotment sites owned by local authority

(1) This section applies where a local authority owns an allotment site.

(2) A local authority may not dispose of the whole or part of the allotment site or change the use of the whole or part of the allotment site without the consent of the Scottish Ministers.

(3) Before deciding whether to grant consent, the Scottish Ministers must—

(a) seek the views of the local authority on the proposed decision, and

(b) consult such other persons appearing to them to have an interest in the proposed disposal or change of use.

(4) The Scottish Ministers may make the granting of consent subject to such conditions as they think fit.

(5) The Scottish Ministers may not grant consent unless they are satisfied that—

(a) the tenant of each allotment on the whole or part of the allotment site is to be offered a lease of another allotment of an area the same as or similar to that of the tenant's allotment—

(i) on the allotment site, or

(ii) in the area of the local authority within a reasonable distance of the allotment site, or

(b) the provision of another allotment for the tenant is unnecessary or not reasonably practicable.

(6) Any transfer of ownership of the whole or part of the allotment site, and any deed purporting to transfer such ownership, without the consent of the Scottish Ministers is of no effect.

Commencement Information

I150 S. 117 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 16)

118 Disposal etc. of allotment sites leased by local authority

(1) This section applies where a local authority leases an allotment site.

(2) A local authority may not renounce its lease of the whole or part of the allotment site without the consent of the Scottish Ministers.

(3) In the case where a change of use of the whole or part of the allotment site proposed by the local authority is permitted by the lease, the local authority may not change the use of the allotment site without the consent of the Scottish Ministers.

(4) Before deciding whether to grant consent mentioned in subsection (2) or (3), the Scottish Ministers must—
  (a) seek the views of the local authority on the proposed decision, and
  (b) consult with such other persons appearing to them to have an interest in the proposed renunciation or change of use.

(5) The Scottish Ministers may make the granting of consent mentioned in subsection (2) or (3) subject to such conditions as they think fit.

(6) The Scottish Ministers may not grant consent mentioned in subsection (2) or (3) unless they are satisfied that—
  (a) the tenant of each allotment on the whole or part of the allotment site is to be offered a lease of another allotment of an area the same as or similar to that of the tenant's allotment—
    (i) on the allotment site, or
    (ii) in the area of the local authority within a reasonable distance of the allotment site, or
  (b) the provision of another allotment for the tenant is unnecessary or not reasonably practicable.

(7) Any renunciation of the local authority's lease of the whole or part of the allotment site, and any deed purporting to renounce the lease, without the consent of the Scottish Ministers is of no effect.

Commencement Information
I151 S. 118 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 17)

119 Duty to prepare food-growing strategy

(1) Each local authority must prepare a food-growing strategy for its area.

(2) A local authority must publish the food-growing strategy before the expiry of the period of two years beginning with the day on which this section comes into force.

(3) A food-growing strategy is a document—
  (a) identifying land in its area that the local authority considers may be used as allotment sites,
  (b) identifying other areas of land in its area that could be used by a community for the cultivation of vegetables, fruit, herbs or flowers,
  (c) describing how, where the authority is required to take reasonable steps under section 112(1), the authority intends to increase the provision in its area of—
    (i) allotments, or
    (ii) other areas of land for use by a community for the cultivation of vegetables, fruit, herbs or flowers, and
  (d) containing such other information as may be prescribed.

(4) The description required by paragraph (c) of subsection (3) must in particular describe whether and how the authority intends to increase the provision of the types of land mentioned in paragraph (a) or (b) of that subsection in communities which experience socio-economic disadvantage.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(5) The authority must publish the food-growing strategy on a website or by other electronic means.

Commencement Information
I152 S. 119 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

120 Duty to review food-growing strategy

(1) Each local authority must review its food-growing strategy before the end of—
- (a) the period of 5 years beginning with the day on which the strategy is first published under section 119(2), and
- (b) each subsequent period of 5 years.

(2) If, following a review under subsection (1), the authority decides that changes to its food-growing strategy are necessary or desirable, the authority must publish a revised food-growing strategy on a website or by other electronic means.

Commencement Information
I153 S. 120 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

121 Annual allotments report

(1) As soon as reasonably practicable after the end of each reporting year, each local authority must prepare and publish an annual allotments report for its area.

(2) An annual allotments report is a report setting out in respect of the reporting year to which it relates—
- (a) the location and size of each allotment site,
- (b) the number of allotments on each allotment site,
- (c) where the whole of an allotment site is leased from the authority by one person, the proportion of land on the allotment site (excluding any land falling within paragraph (b) of the definition of "allotment site" in section 108) that is not subleased from the tenant of the allotment site,
- (d) where allotments on an allotment site are leased from the authority by more than one person, the proportion of land on the allotment site (excluding any land falling within paragraph (b) of the definition of "allotment site" in section 108) that is not leased from the authority,
- (e) where an allotment site is leased by the local authority—
  - (i) the period of the lease of each allotment site, and
  - (ii) the rent payable under the lease by the authority,
- (f) the period of any lease between the authority and the tenant of an allotment site,
- (g) the rent payable under any lease between the authority and the tenant of an allotment site,
- (h) the rent payable for each allotment in the area of the authority,

(i) how, in the opinion of the authority, such rents are decided by reference to the method of determining fair rent provided for in regulations under section 115(1),

(j) the number of persons entered in the list maintained under section 111(1) on the final day of the reporting year to which the report relates,

(k) the number of persons mentioned in paragraph (j) who, on the final day of the reporting year to which the report relates, have been entered in the list mentioned in that paragraph for a continuous period of more than 5 years,

(l) the steps taken by the authority to comply with the duty imposed by section 112(1),

(m) reasons for any failure to comply with that duty,

(n) the number of allotments on each allotment site that are accessible by a disabled person,

(o) the number of allotments on each allotment site adjusted by the authority during the reporting year to meet the needs of a tenant who is a disabled person,

(p) the number of persons entered in the list maintained under section 111(1) during the reporting year whose request under subsection (1) of section 109 included information under subsection (4) of that section,

(q) the income received, and expenditure incurred, by the authority in connection with allotment sites, and

(r) such other information as may be prescribed.

(3) The authority must publish the annual allotments report on a website or by other electronic means.

(4) In this section, "reporting year" means—

(a) the period of a year beginning with any day occurring during the period of a year after the day on which this section comes into force, and

(b) each subsequent period of a year.

Commencement Information

I154 S. 121 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 18)

122 Power to remove unauthorised buildings from allotment sites

(1) This section applies where—

(a) a building or other structure that is not permitted by, or does not comply with, a provision of regulations made under section 115(1) is erected on an allotment site, and

(b) at the time the building or other structure was erected or, as the case may be modified, regulations made under section 115(1) prohibited such erection or modification.

(2) The local authority within whose area the allotment site is situated may—

(a) remove the building or other structure from the allotment site,

(b) dispose of the materials that formed the building or other structure as it thinks fit, and

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(c) recover the cost of the removal, and the disposal of the materials, of the building or other structure from a liable tenant.

(3) "Liable tenant" means, where the building or other structure was erected by or on behalf of a tenant—

(a) on the tenant's allotment, that tenant, or

(b) on other land as mentioned in paragraph (b) of the definition of "allotment site" in section 108, and the building or other structure on that other land was erected—

(i) without the consent of the tenants of other allotments on the allotment site of which that other land forms part, that tenant, or

(ii) with the consent of any tenants of such other allotments, that tenant and any other tenant who consented.

(4) A liable tenant mentioned in subsection (3)(b)(ii) is jointly and severally liable with other liable tenants mentioned in that subsection.

(5) Where a local authority proposes to take any action in exercise of a power conferred by subsection (2), it must—

(a) no later than one month before taking such action, give notice in writing of the authority's proposed action to each tenant who would be affected by such action,

(b) allow each such tenant the opportunity to make representations to the authority in relation to the proposed action,

(c) take account of any representations received by it by virtue of paragraph (b), and

(d) give notice in writing to each tenant mentioned in paragraph (a) to inform them of the authority's decision in relation to the proposed action and, if applicable, the date on which the proposed action is to take place.

(6) If the authority decides to take the proposed action, any tenant who was notified under subsection (5)(a) may appeal to the sheriff against the decision of the authority before the expiry of the period of 21 days beginning with the day on which the notice mentioned in subsection (5)(d) is given.

(7) The Scottish Ministers may by regulations make further provision for or in connection with the procedure to be followed in relation to the exercise of the powers conferred by subsection (2).

(8) In the case where an allotment site is leased by a local authority, the authority may not exercise a power conferred by subsection (2) if such exercise would contravene a provision of the lease.

Commencement Information
I155 S. 122 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

123 Delegation of management of allotment sites

(1) This section applies where—

(a) a local authority owns or leases an allotment site, and

(b) one or more allotments on the allotment site are leased to tenants.

(2) A person who represents the interests of all or a majority of the tenants may make a request to the local authority that the authority delegate to the person any of the authority's functions mentioned in subsection (3) in relation to the allotment site.

(3) The functions are—
- (a) the functions under—
  - (i) section 109(7) (request to lease allotment),
  - (ii) section 111(1) (duty to maintain list),
  - (iii) section 116(9) and (10) (display and copies of allotment site regulations),
  - (iv) section 124 (promotion and use of allotments: expenditure),
- (b) the giving of notice under—
  - (i) section 126(1) (notice of termination of lease of allotment or allotment site),
  - (ii) section 127(2)(b) (notice of resumption),
  - (iii) section 128(2) (notice of termination: sublease by local authority).

(4) A request under subsection (2) must—
- (a) be made in writing, and
- (b) include—
  - (i) the name and address of the person making the request, and
  - (ii) such other information as may be prescribed.

(5) The authority may, within 14 days of receiving the request, ask—
- (a) the person making the request for such further information as it considers necessary in connection with the request, and
- (b) that the information be supplied within 14 days of the authority's request.

(6) The authority must give notice to the person making the request of its decision to agree to or refuse the request—
- (a) where further information is requested by the authority under subsection (5), before the expiry of 56 days beginning with the date on which the request is received by the authority, or
- (b) in any other case, before the expiry of 28 days beginning with the date on which the request is received by the authority.

(7) If the decision is to refuse the request, the notice referred to in subsection (6) must include reasons for the authority's decision.

(8) If the decision is to agree to the request, the authority must decide—
- (a) which of its functions that are mentioned in subsection (3) are to be delegated to the person making the request, and
- (b) the timing of any review of the delegation of those functions by the authority.

(9) Before making a decision under subsection (8), the authority must consult the person who made the request.

(10) The authority may recall the delegation of any of its functions delegated under this section if—
- (a) it considers that the person to whom the functions are delegated is not satisfactorily carrying out a function, or

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(b) there is a material disagreement between the authority and the person to whom the functions are delegated about the carrying out of the functions.

(11) In the case where an allotment site is leased by a local authority, the authority must not delegate any functions under this section to the person making the request where the delegation would contravene a provision of the lease.

Commencement Information
I156 S. 123 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

124 Promotion and use of allotments: expenditure

(1) A local authority may incur expenditure for the purpose of—
(a) the promotion of allotments in its area, and
(b) the provision of training by or on behalf of the authority to tenants, or potential tenants, of allotments about the use of allotments.

(2) In deciding whether to exercise the power conferred by subsection (1), a local authority must have regard to the desirability of promoting allotments, or providing training, as mentioned in that subsection in relation to communities which experience socio-economic disadvantage.

Commencement Information
I157 S. 124 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

125 Use of local authority and other premises for meetings

(1) In relation to an allotment site, the persons mentioned in subsection (2) may make a request to the local authority in whose area the site is situated to use free of charge the premises mentioned in subsection (3) for the purpose of holding a meeting of the tenants of allotments on the site about the site.

(2) The persons are—
(a) a tenant of the allotment site,
(b) a person referred to in section 123(2).

(3) The premises are—
(a) premises in a public school or grant-aided school within the area of the local authority,
(b) other premises within the area of the local authority which are—
(i) maintained by the authority,
(ii) maintained by a person other than the authority and used for or in connection with the delivery of services the provision of which is delegated by the authority to that person, or
(iii) maintained, and whose use is managed, by a person other than the authority in accordance with arrangements between the authority and that person.

(4) The request must—

(a) be made in writing,
(b) include the name and address of the person making the request,
(c) include information about the proposed date, time, location and purpose of the proposed meeting,
(d) be made at least one month before the date on which the meeting is proposed to take place.

(5) The local authority must, before the end of the period of 14 days beginning with the day on which it receives the request, write to the person who made the request to—
(a) grant the request,
(b) offer the person an alternative date, time or location for the proposed meeting, or
(c) refuse the request.

(6) In this section, "public school" and "grant-aided school" have the meanings given by section 135(1) of the Education (Scotland) Act 1980.

Commencement Information
I158 S. 125 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Termination of lease

126 Termination of lease of allotment or allotment site

(1) Despite any provision to the contrary in the lease of an allotment or an allotment site, a local authority may terminate the lease of the whole or part of the allotment or allotment site on a specified date; but may do so only if the authority has given the tenant of the allotment or the allotment site notice of the termination in accordance with subsection (2).

(2) Notice is given in accordance with this subsection if—
(a) it is in writing, and
(b) it is given—
(i) if subsection (3) applies, at least one month before the specified date,
(ii) if subsection (4) applies, at least one year before the specified date.

(3) This subsection applies if, following the expiry of the period of 3 months beginning with the date on which the lease commenced, the tenant has failed to a material extent to comply with any provision of the regulations made under section 115(1).

(4) This subsection applies if the Scottish Ministers have consented to—
(a) the disposal of the allotment site subject to the lease or, as the case may be, the allotment site on which the allotment is situated under section 117,
(b) the change of use of the allotment site subject to the lease or, as the case may be, the allotment site on which the allotment is situated under section 117 or 118,
(c) the renunciation by the local authority of its lease of the allotment site subject to the lease or, as the case may be, the allotment site on which the allotment is situated under section 118.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(5) Before sending any notice under subsection (1), a local authority must—

(a) no later than one month before giving any notice under that subsection, write to the tenant to inform the tenant that the authority is proposing to give notice of termination under that subsection and give reasons for the authority's proposal,

(b) allow the tenant the opportunity to make representations to the authority in relation to the authority's proposal,

(c) take account of any representations received by it by virtue of paragraph (b), and

(d) either—

(i) write to the tenant to inform the tenant that the authority no longer proposes to give notice under subsection (1) for the reasons referred to in paragraph (a), or

(ii) give notice under subsection (1) for those reasons.

(6) A tenant who is aggrieved by a notice given under subsection (1) may appeal to the sheriff within 21 days of the date of the notice.

(7) If subsection (4) applies, an appeal under subsection (6) may be made on a point of law only.

(8) A notice under subsection (1) has no effect until—

(a) the period within which an appeal may be made under subsection (6) has elapsed without an appeal being made, or

(b) where such an appeal is made, the appeal is withdrawn or finally determined.

(9) The decision of the sheriff on appeal under this section is final.

(10) The Scottish Ministers may by regulations make further provision as to the procedure to be applied in connection with the exercise of the power conferred by subsection (1).

(11) Where, under subsection (2) of section 128, a local authority sends a copy of the notice mentioned in that subsection to a person, the authority need not also send a notice under subsection (1) of this section.

(12) In this section, “specified” means specified in the notice under subsection (1).

Commencement Information

I159 S. 126 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

127 Resumption of allotment or allotment site by local authority

(1) This section applies where a person leases an allotment or an allotment site from a local authority.

(2) Despite any provision to the contrary in the lease, the authority may resume possession of the whole or part of the allotment or the allotment site; but may do so only if—

(a) the resumption is required for building, mining or any other industrial purpose or for the construction, maintenance or repair of any roads or sewers necessary in connection with any such purpose,

(b) the authority has given the tenant notice of the resumption in accordance with subsection (3), and

(c) the Scottish Ministers have consented to the notice given under paragraph (b).

(3) Notice is given in accordance with this subsection if—

(a) it is in writing,

(b) it is given at least three months before the date on which the resumption is to take place, and

(c) it specifies that date.

(4) The Scottish Ministers may make the granting of consent mentioned in subsection (2)(c) subject to such conditions as they think fit.

(5) The Scottish Ministers may not grant consent unless they are satisfied that—

(a) the tenant of the whole or part of the allotment, or (as the case may be) the tenant of each allotment on the whole or part of the allotment site, is to be offered a lease of another allotment which is—

(i) of an area the same as or similar to that of the tenant's allotment, and

(ii) in the area of the local authority within a reasonable distance of the allotment site or the allotment site on which the allotment is situated, or

(b) the provision of another allotment for the tenant is unnecessary or not reasonably practicable.

Commencement Information

I160 S. 127 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 19)

Notice of termination: sublease

128 Notice of termination: sublease by local authority

(1) Subsection (2) applies where—

(a) an allotment site is leased to a local authority,

(b) the authority has granted a sublease of—

(i) the allotment site, or

(ii) an allotment on the allotment site,

(c) the authority receives notice of termination of the lease of the whole or part of the allotment site, and

(d) the sublease is of land that is the same as, or forms part of, the land to which the notice relates.

(2) The authority must—

(a) send a copy of the notice to the subtenant of the sublease, and

(b) notify the subtenant of the sublease—

(i) of the date on which the lease of the whole or part of the allotment site is terminated, and

(ii) that the subtenant's sublease is terminated on that date.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

Commencement Information
I161 S. 128 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 20)

129 Notice of termination: sublease by allotment association etc.

(1) Subsection (2) applies where—
- (a) the local authority gives notice under section 126(1) or 127(2), or sends a copy of a notice under section 128(2)(a), to the tenant of the whole or part of an allotment site,
- (b) the tenant subleases allotments on the whole or part of the allotment site to one or more subtenants, and
- (c) the tenant represents the interests of the subtenants.

(2) The tenant must—
- (a) send a copy of the notice to each subtenant, and
- (b) notify each subtenant—
  - (i) of the date on which the lease of the whole or part of the allotment site is terminated, and
  - (ii) that the subtenant's sublease is terminated on that date.

Commencement Information
I162 S. 129 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Prohibition against assignation or subletting

130 Prohibition against assignation or subletting

(1) The tenant of an allotment must not assign the lease of the whole or part of the allotment without the consent of the local authority which granted the lease of the allotment or, as the case may be, of the allotment site on which the allotment is situated.

(2) The tenant of an allotment must not sublet the whole or part of an allotment to any person.

(3) A purported assignation of the lease of the whole or part of an allotment contrary to subsection (1) is of no effect.

(4) A purported sublease of the whole or part of an allotment contrary to subsection (2) is of no effect.

Commencement Information
I163 S. 130 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Tenants' rights

131 Sale of surplus produce

Subject to any regulations under section 115(1), a tenant of an allotment may sell (other than with a view to making a profit) produce grown by the tenant on the allotment.

Commencement Information
I164 S. 131 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

132 Removal of items from allotment by tenant

(1) A tenant of an allotment may remove from the allotment any of the items mentioned in subsection (2) before the expiry or termination of the tenant's lease.

(2) The items are—
- (a) any buildings (or other structures) erected by or on behalf of the tenant,
- (b) any buildings (or other structures) acquired by the tenant,
- (c) any produce, trees or bushes—
  - (i) planted by or on behalf of the tenant, or
  - (ii) acquired by the tenant.

Commencement Information
I165 S. 132 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Compensation

133 Compensation for disturbance

(1) Subsection (2) applies where—
- (a) the lease of the whole or part of an allotment is terminated—
  - (i) by notice under section 126(2)(b)(ii),
  - (ii) as a result of a notice of termination of the lease of the allotment site on which the allotment is situated under section 126(2)(b)(ii),
  - (iii) as a result of a notice of resumption of the allotment, or the allotment site on which the allotment is situated, under section 127(2), or
  - (iv) as a result of a notice mentioned in section 128(1)(c), and
- (b) the tenant of the allotment suffers damage caused by disturbance of the enjoyment of the tenant's allotment as a result of the termination of the lease.

(2) The local authority giving or, as the case may be, receiving a notice mentioned in paragraph (a) of subsection (1) is liable to compensate a person referred to in paragraph (b) of that subsection.

(3) The minimum amount of compensation payable under subsection (2) is—

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(a) where the termination of the lease relates to the whole of an allotment, an amount equal to one year's rent of the allotment payable immediately before the termination of the lease,

(b) where the termination of the lease relates to part of an allotment, a proportion of the amount mentioned in paragraph (a) that is in the same proportion that the part of the allotment bears to the whole of the allotment.

(4) The Scottish Ministers must by regulations make further provision for or in connection with compensation payable under subsection (2).

(5) Regulations under subsection (4) must include, in particular, provision about the procedure to be followed in—

(a) determining whether the local authority is liable to pay compensation under subsection (2), and

(b) subject to subsection (3), assessing the amount of compensation for which the local authority is liable in cases where the lease does not make such provision.

(6) Before making regulations under subsection (4), the Scottish Ministers must consult—

(a) local authorities, and

(b) any other person appearing to the Scottish Ministers to have an interest.

(7) A person referred to in subsection (1)(b) who is aggrieved about any decision by the local authority in connection with the duty imposed by subsection (2) may appeal to the sheriff within 21 days of receiving notice of the authority's decision.

Commencement Information

I166 S. 133(1)-(3)(7) in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

I167 S. 133(4)-(6) in force at 15.12.2017 for specified purposes by S.S.I. 2017/420, **art. 2(1)(a)**(2)

I168 S. 133(4)-(6) in force at 1.4.2018 in so far as not already in force by S.S.I. 2017/458, art. 2, **sch.**

134 Compensation for deterioration of allotment

(1) This section applies where—

(a) the lease of a person ("the tenant") of an allotment has expired or been terminated, and

(b) it appears to the local authority which granted the lease of the allotment or, as the case may be, of the allotment site on which the allotment is situated that—

(i) the allotment deteriorated during the tenant's lease of the allotment, and

(ii) the deterioration was caused by the fault or negligence of the tenant.

(2) The tenant is liable to pay compensation for the deterioration to the tenant's landlord.

(3) The amount of compensation payable is the cost of remedying the deterioration.

(4) The Scottish Ministers must by regulations make further provision for or in connection with compensation payable under subsection (2).

(5) Regulations under subsection (4) must include, in particular, provision about the procedure to be followed—

(a) in determining whether the tenant is liable to pay compensation under subsection (2), and

(b) in accordance with subsection (3), in assessing the amount of compensation for which the tenant is liable in cases where the lease does not make such provision.

(6) Before making regulations under subsection (4), the Scottish Ministers must consult—
(a) local authorities, and
(b) any other person appearing to the Scottish Ministers to have an interest.

(7) A tenant who is aggrieved about any decision by the local authority in connection with the duty imposed by subsection (2) may appeal to the sheriff within 21 days of receiving notice of the authority's decision.

Commencement Information
I169 S. 134(1)-(3)(7) in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 21)
I170 S. 134(4)-(6) in force at 15.12.2017 for specified purposes by S.S.I. 2017/420, **art. 2(1)(b)**(2)
I171 S. 134(4)-(6) in force at 1.4.2018 in so far as not already in force by S.S.I. 2017/458, art. 2, **sch.**

135 Compensation for loss of crops

(1) This section applies where—
(a) the whole or part of an allotment is resumed under section 127(2), and
(b) the tenant of the allotment suffers loss of any crop as a result of the resumption.

(2) The local authority that resumed the allotment under section 127(2) is liable to compensate the tenant.

(3) The Scottish Ministers must by regulations make further provision for or in connection with compensation payable under subsection (2).

(4) Regulations under subsection (3) must include, in particular, provision about the procedure to be followed in—
(a) determining whether the local authority is liable to pay compensation under subsection (2), and
(b) assessing the amount of compensation for which the local authority is liable in cases where the lease does not make such provision.

(5) Before making regulations under subsection (3), the Scottish Ministers must consult—
(a) local authorities, and
(b) any other person appearing to the Scottish Ministers to have an interest.

(6) A tenant who is aggrieved about any decision by the local authority in connection with the duty imposed by subsection (2) may appeal to the sheriff within 21 days of receiving notice of the authority's decision.

Commencement Information
I172 S. 135(1)(2)(6) in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**
I173 S. 135(3)-(5) in force at 15.12.2017 for specified purposes by S.S.I. 2017/420, **art. 2(1)(c)**(2)
I174 S. 135(3)-(5) in force at 1.4.2018 in so far as not already in force by S.S.I. 2017/458, art. 2, **sch.**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

136 Set-off of compensation etc.

(1) Where a local authority is liable to pay compensation to a former tenant under section 133(2) or 135(2), the local authority may deduct from the compensation any sum that the former tenant is liable to pay to the local authority in connection with the lease that was terminated.

(2) Where a tenant is liable to pay any sum to a local authority in connection with a lease of an allotment, the tenant may deduct from the sum any compensation that the local authority is liable to pay to the tenant under section 133(2) or 135(2).

Commencement Information
I175 S. 136 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Guidance

137 Guidance

(1) A local authority must have regard to any guidance issued by the Scottish Ministers about the carrying out of functions conferred on the authority by this Part.

(2) Before issuing such guidance, the Scottish Ministers must consult—
(a) local authorities, and
(b) any other person appearing to the Scottish Ministers to have an interest.

Commencement Information
I176 S. 137 in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**
I177 S. 137 in force at 1.4.2018 in so far as not already in force by S.S.I. 2017/458, art. 2, **sch.**

Interpretation of Part 9

138 Interpretation of Part 9

In this Part—
"allotment" has the meaning given by section 107,
"allotment site" has the meaning given by section 108,
"disabled person" means a person who is a disabled person for the purposes of the Equality Act 2010,
"food-growing strategy" has the meaning given by section 119(3),
"lease" and "leased" include "sublease" and "subleased",
"prescribed" means prescribed by the Scottish Ministers by regulations,
"tenant" includes "subtenant".

Commencement Information
I178 S. 138 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

PART 10

PARTICIPATION IN PUBLIC DECISION-MAKING

139 Participation in decisions of certain persons exercising public functions

(1) The Scottish Ministers may by regulations make provision for or in connection with the purpose mentioned in subsection (2).

(2) The purpose is promoting or facilitating participation in relation to decisions of such persons as may be specified (in this section, "relevant persons") relating to activities carried out, or proposed to be carried out, by or on behalf of those persons.

(3) Regulations under subsection (1) may enable relevant persons to determine—
- (a) the persons whose participation in relation to such decisions is to be promoted or facilitated, and
- (b) which of those decisions persons so determined may participate in relation to.

(4) Regulations under subsection (1) may provide that activities as mentioned in subsection (2) include the allocation of—
- (a) financial resources, and
- (b) such other resources as may be specified.

(5) Regulations under subsection (1) may, in particular, include provision—
- (a) (without prejudice to subsection (3)), conferring functions on relevant persons,
- (b) specifying activities as mentioned in subsection (2) in relation to which the regulations apply, or do not apply,
- (c) specifying classes of such activities in relation to which the regulations apply, or do not apply,
- (d) specifying criteria for determining such activities in relation to which the regulations apply, or do not apply,
- (e) requiring relevant persons to prepare and publish a report, at such intervals as may be specified, describing the steps taken by the persons in connection with the carrying out of functions conferred on them by the regulations.

(6) Relevant persons must have regard to any guidance issued by the Scottish Ministers relating to functions conferred on them by regulations under subsection (1).

(7) Regulations under subsection (1) may specify a person in relation to whose decisions participation is to be promoted or facilitated only if the person is—
- (a) a part of the Scottish Administration, or
- (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998).

(8) In this section, "specified" means specified in regulations made under subsection (1).

Commencement Information

I179 S. 139(1)-(5)(7) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

PART 11

NON-DOMESTIC RATES

140 Schemes for reduction and remission of non-domestic rates

(1) After section 3 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962, insert—

"**3A Schemes for reduction and remission of rates**

(1) This section applies in relation to rates leviable for the year 2015-16 and any subsequent year.

(2) A rating authority may, in accordance with a scheme made by it for the purposes of this section, reduce or remit any rate leviable by it in respect of lands and heritages.

(3) Any reduction or remission under subsection (2) ceases to have effect at such time as may be determined by the rating authority.

(4) A scheme under subsection (2) may make provision for the rate to be reduced or remitted by reference to—

(a) such categories of lands and heritages as may be specified in the scheme,

(b) such areas as may be so specified,

(c) such activities as may be so specified,

(d) such other matters as may be so specified.

(5) Any reduction or remission under subsection (2) ceases to have effect on a change in the occupation of the lands and heritages in respect of which it was granted.

(6) Before exercising the power conferred by subsection (2), or amending a scheme made under that subsection, the rating authority must have regard to the authority's expenditure and income and the interests of persons liable to pay council tax set by the authority.".

(2) In Schedule 12 to the Local Government Finance Act 1992 (payments to local authorities by the Scottish Ministers), in paragraph 10(3)(a)—

(a) in sub-paragraph (iii), after "Provisions" insert " etc. ", and

(b) after that sub-paragraph insert—

"(iiia) section 3A (schemes for reduction and remission of rates) of that Act;".

(3) In paragraph 2 of Schedule 1 (rules for the calculation of non-domestic rating contributions) to the Non-Domestic Rating Contributions (Scotland) Regulations 1996 (S.I. 1996/3070), in sub-paragraph (c), after "section" insert " 3A or ".

(4) Paragraph 10(4) of Schedule 12 to the Local Government Finance Act 1992 does not apply in relation to the amendment made by subsection (3).

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

Commencement Information
I180 S. 140 in force at 31.10.2015 by S.S.I. 2015/344, **art. 2**

PART 12

GENERAL

141 Guidance under Parts 2, 3, 5, 8, 9 and 10: publication

The Scottish Ministers must publish, in such manner as they think fit, any guidance issued by them relating to Part 2, Part 3, Part 5, Part 8, Part 9 or Part 10.

142 Subordinate legislation

(1) Any power of the Scottish Ministers to make an order or regulations under this Act includes a power to make—
  (a) different provision for different purposes,
  (b) incidental, supplementary, consequential, transitional or transitory provision or savings.

(2) An order under—
  (a) section 21(2) or (3), 78(2) or (3), 85(2)(c) or 112(5) or (6), or
  (b) section 143(1) containing provisions which add to, replace or omit any part of the text of an Act,

is subject to the affirmative procedure.

(3) Regulations under section 4(7), 13(3), 17(1), 99(1) or 139 are subject to the affirmative procedure.

(4) Any other orders and regulations under this Act are subject to the negative procedure.

(5) This section does not apply to—
  (a) regulations under section 115(1), or
  (b) orders under section 145(2).

143 Ancillary provision

(1) The Scottish Ministers may by order make such incidental, supplementary, consequential, transitional or transitory provision or savings as they consider necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.

(2) An order under this section may modify any enactment (including this Act), instrument or document.

144 Minor and consequential amendments and repeals

(1) Schedule 4 contains minor amendments and amendments consequential on the provisions of this Act.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(2) The enactments mentioned in the first column of schedule 5 (which include enactments that are spent) are repealed to the extent set out in the second column.

Commencement Information

I181 S. 144(1) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**
I182 S. 144(1) in force at 15.4.2016 for specified purposes by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)
I183 S. 144(1) in force at 20.12.2016 for specified purposes by S.S.I. 2016/410, **art. 2(a)**
I184 S. 144(1) in force at 1.4.2018 for specified purposes by S.S.I. 2017/458, art. 2, **sch.** (with art. 4)
I185 S. 144(2) in force at 15.4.2016 for specified purposes by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)
I186 S. 144(2) in force at 20.12.2016 for specified purposes by S.S.I. 2016/410, **art. 2(b)**
I187 S. 144(2) in force at 1.4.2018 for specified purposes by S.S.I. 2017/458, art. 2, **sch.** (with arts. 3, 5-11)

145 Commencement

(1) This section, sections 141 to 143 and section 146 come into force on the day after Royal Assent.

(2) The remaining provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

(3) An order under subsection (2) may include transitional or transitory provision or savings.

146 Short title

The short title of this Act is the Community Empowerment (Scotland) Act 2015.

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

SCHEDULE 1

(introduced by section 4(1))

COMMUNITY PLANNING PARTNERS

Commencement Information

I188 Sch. 1 in force at 20.12.2016 by S.S.I. 2016/363, **art. 2**

The board of management of a regional college designated by order under section 7A of the Further and Higher Education (Scotland) Act 2005 which is situated in the area of the local authority

The chief constable of the Police Service of Scotland

The Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978 whose area includes, or is the same as, the area of the local authority

Highlands and Islands Enterprise where the area within which, or in relation to which, it exercises functions in accordance with section 21(1) of the Enterprise and New Towns (Scotland) Act 1990 includes the whole or part of the area of the local authority

Historic Environment Scotland

Any integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014 to which functions of the local authority and the Health Board are delegated

A National Park authority, established by virtue of a designation order under section 6 of the National Parks (Scotland) Act 2000, for a Park whose area includes the whole or part of the area of the local authority

A regional strategic body specified in schedule 2A to the Further and Higher Education (Scotland) Act 2005 which is situated in the area of the local authority

Scottish Enterprise

The Scottish Environment Protection Agency

The Scottish Fire and Rescue Service

Scottish Natural Heritage

The Scottish Sports Council

The Skills Development Scotland Co. Limited

A regional Transport Partnership established by virtue of section 1(1)(b) of the Transport (Scotland) Act 2005 whose region includes, or is the same as, the area of the local authority

VisitScotland

SCHEDULE 2

(introduced by section 21(1))

PUBLIC SERVICE AUTHORITIES

Commencement Information

I189 Sch. 2 in force at 1.4.2017 by S.S.I. 2017/40, art. 2, **sch.**

The board of management of a college of further education (those expressions having the same meanings as in section 36(1) of the Further and Higher Education (Scotland) Act 1992)

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

A Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978

Highlands and Islands Enterprise

A local authority

A National Park authority established by virtue of a designation order under section 6 of the National Parks (Scotland) Act 2000

The Police Service of Scotland

Scottish Enterprise

The Scottish Environment Protection Agency

The Scottish Fire and Rescue Service

Scottish Natural Heritage

A regional Transport Partnership established by virtue of section 1(1)(b) of the Transport (Scotland) Act 2005

SCHEDULE 3

(introduced by section 78(1))

RELEVANT AUTHORITIES

Commencement Information

I190 Sch. 3 in force at 23.1.2017 by S.S.I. 2016/363, **art. 3(b)**

The board of management of a college of further education (those expressions having the same meanings as in section 36(1) of the Further and Higher Education (Scotland) Act 1992)

The British Waterways Board

The Crofting Commission

A Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978

Highlands and Islands Enterprise

A local authority

A National Park authority established by virtue of a designation order under section 6 of the National Parks (Scotland) Act 2000

The Scottish Courts and Tribunals Service

Scottish Enterprise

The Scottish Environment Protection Agency

The Scottish Fire and Rescue Service

The Scottish Ministers

Scottish Natural Heritage

The Scottish Police Authority

Scottish Water

A Special Health Board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978

A regional Transport Partnership established by virtue of section 1(1)(b) of the Transport (Scotland) Act 2005

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

SCHEDULE 4

(introduced by section 144(1))

MINOR AND CONSEQUENTIAL AMENDMENTS

Small Landholders (Scotland) Act 1911

1 In section 26 of the Small Landholders (Scotland) Act 1911 (supplementary provisions and restrictions), in subsection (3)(e), for "the Allotments (Scotland) Act, 1892, or the Local Government (Scotland) Act, 1894", substitute " Part 9 of the Community Empowerment (Scotland) Act 2015 ".

Commencement Information
I191 Sch. 4 para. 1 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Compensation (Defence) Act 1939

2 In section 18 of the Compensation (Defence) Act 1939 (application to Scotland and Northern Ireland), in subsection (1), for "the Allotments Act, 1922 shall be construed as a reference to the Allotments (Scotland) Act, 1922", substitute " allotment gardens within the meaning of the Allotments Act, 1922 is omitted ".

Commencement Information
I192 Sch. 4 para. 2 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 4)

Agriculture (Scotland) Act 1948

3 (1) Section 86 of the Agriculture (Scotland) Act 1948 is amended as follows.

(2) In the proviso to subsection (1), in paragraph (a), for "allotment gardens", substitute " allotments ".

(3) In subsection (3), for the definition of "allotment garden", substitute—

""allotment" has the meaning given by section 107 of the Community Empowerment (Scotland) Act 2015;".

Commencement Information
I193 Sch. 4 para. 3 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.**

Opencast Coal Act 1958

4 (1) The Opencast Coal Act 1958 is amended as follows.

(2) In section 41 (provisions as to allotment gardens and other allotments), in subsection (3), for the words from "the", where it third occurs, to the end, substitute " section 107 of the Community Empowerment (Scotland) Act 2015 ".

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(3) In the Eighth Schedule (tenancies of allotment gardens and other allotments), in paragraph 10—

(a) for sub-paragraph (a), substitute—

"(a) paragraph 1 applies as if sub-paragraph (2) were omitted;",

(b) for sub-paragraph (b), substitute—

"(b) sub-paragraph (1) of paragraph 3 applies as if for "the Act of 1908 or the Act of 1922 or the Allotments Act, 1950, or by virtue of any other enactment relating to allotments" there were substituted " Part 9 of the Community Empowerment (Scotland) Act 2015 ";",

(c) for sub-paragraph (c), substitute—

"(c) sub-paragraph (2) of paragraph 3 applies as if—

(i) for "any of the enactments mentioned in the next following sub-paragraph" there were substituted " Part 9 of the Community Empowerment (Scotland) Act 2015 (but excluding any compensation for disturbance) ",

(ii) "garden" were omitted, and

(iii) for "subsection (2) of section two of the Act of 1922" there were substituted "section 127(2) of the Community Empowerment (Scotland) Act 2015;",

(d) in sub-paragraph (e), for the words from "for" to the end, substitute " any reference to the Allotments Act, 1950 is to be read as a reference to Part 9 of the Community Empowerment (Scotland) Act 2015 ", and

(e) for sub-paragraph (f), substitute—

"(f) sub-paragraph (1) of paragraph 5 applies as if for "section four or section five of the Act of 1922, or of subsection (4) of section forty-seven of the Act of 1908" there were substituted " section 132 of the Community Empowerment (Scotland) Act 2015 ";".

Commencement Information

I194 Sch. 4 para. 4 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 4)

Local Government (Scotland) Act 1973

5 In the Local Government (Scotland) Act 1973—

(a) in section 73 (appropriation of land)—

(i) in subsection (2), the word "not" is repealed,

(ii) in that subsection, for "except with the consent of the Secretary of State", substitute " subject to sections 117 and 118 of the Community Empowerment (Scotland) Act 2015 ", and

(iii) in subsection (3), after "allotments", insert " (within the meaning of section 107 of that Act) ",

(b) in section 99 (general duties of auditors), in subsection (1)(c), for "sections 15 to 17 (community planning) of the Local Government in Scotland

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

Act 2003 (asp 1)", substitute " Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning) ", and

(c) in section 102 (reports to Commission by Controller of Audit), in subsection (1)(c)—

(i) the words "and Part 2 (community planning)" are repealed, and

(ii) at the end, insert " and Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning) ".

Commencement Information

I195 Sch. 4 para. 5(a) in force at 1.4.2018 by S.S.I. 2017/458, art. 2, **sch.** (with art. 4)

I196 Sch. 4 para. 5(b)(c) in force at 20.12.2016 by S.S.I. 2016/410, **art. 2(a)**

Local Government Act 1992

6 In section 1 of the Local Government Act 1992 (publication of information as to standards of performance), in subsection (1)(b), for the words "Part 2 (community planning) of the Local Government in Scotland Act 2003 (asp 1)", substitute " Part 2 (community planning) of the Community Empowerment (Scotland) Act 2015 ".

Commencement Information

I197 Sch. 4 para. 6 in force at 20.12.2016 by S.S.I. 2016/410, **art. 2(a)**

Local Government in Scotland Act 2003

7 In section 57 of the Local Government in Scotland Act 2003 (power to modify enactments), in subsection (2)(a), for ", 13(1) or 15(1)", substitute " or 13(1) ".

Commencement Information

I198 Sch. 4 para. 7 in force at 20.12.2016 by S.S.I. 2016/410, **art. 2(a)**

Land Reform (Scotland) Act 2003

8 (1) The Land Reform (Scotland) Act 2003 is amended as follows.

(2) In section 37 (registration of interest in land)—

(a) in subsection (4)(a), after "sought", insert " to be registered ",

(b) after subsection (7)(b), insert "and

(c) any notice sent under section 44A,",

(c) in subsection (11)(c), for the words "not registrable land", substitute " excluded land as defined in section 33(2) above ",

(d) in subsection (18), after paragraph (a), insert—

"(aa) where the decision is that such an interest is to be entered in the Register, contain information about the duties imposed under section 44A,", and

(e) in subsection (19), after "above", insert " , including that subsection as modified by section 39(2)(b) below, ".

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(3) In section 51 (exercise of right to buy: approval of community and consent of Ministers)—

(a) in subsection (2)(a)(i), the words "conducted by the community body" are repealed, and

(b) in subsection (6)—

(i) in paragraph (a), after "receipt", insert " by Ministers ",

(ii) in that paragraph, the words "conducted by the body" are repealed, and

(iii) in paragraph (b), the words "conducted by those bodies" are repealed.

(4) In section 52 (ballot procedure)—

(a) in subsection (3)—

(i) for the words "community body which conducts a ballot", substitute " ballotter appointed under section 51A ",

(ii) after "notify", insert " Ministers, the community body, the owner of the land to which the ballot relates and any creditor in a standard security with a right to sell the land of ",

(iii) the word "and" immediately following paragraph (c) is repealed,

(iv) after paragraph (d), insert—

"(e) the wording of that proposition, and

(f) any information provided by the ballotter to persons eligible to vote in the ballot.", and

(v) the words "to Ministers" are repealed, and

(b) after subsection (4), insert—

"(5) Within 7 days of receiving notification under subsection (3) above, Ministers may—

(a) require the ballotter to provide such information relating to the ballot as they think fit,

(b) require the community body to provide such information relating to any consultation with those eligible to vote in the ballot undertaken during the period in which the ballot was carried out as Ministers think fit.

(6) The validity of anything done under this Part of this Act is not affected by any failure by a ballotter to comply with the time limit specified in subsection (4).".

(5) In section 68 (land which may be bought: eligible croft land), in subsection (5), for "the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c.26)", substitute " section 69(1) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 ".

(6) In section 98 (general and supplementary provisions)—

(a) in subsection (5)—

(i) after "33,", insert " 35(4), ",

(ii) for "78 or 94", substitute " 72(4), 78, 94 or 97E(4) ", and

(iii) after "above", insert " or regulations made under section 34(A1)(b), (4A) or (4B), 38(2B), 71(A1)(b), (4A) or (4B), 97C(4), (5) or (6), 97D(1)(b), (7) or (8), 97F(9), 97H(6) or 97N(1) or (3) above ",

(b) after subsection (5), insert—

"(5A) In making a decision under section 38(1), 44(3), 51(1)(b), 73(2) or 97G(2), Ministers are to have regard to the International Covenant on Economic, Social and Cultural Rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 subject to—

(a) any amendments in force in relation to the United Kingdom for the time being, and

(b) any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.", and

(c) in subsection (8), for "and 52(3)", substitute " , 52(3), 97G(7) and (9) and 97J(4) ".

Commencement Information

I199 Sch. 4 para. 8(1)(2)(d)(4)(a) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, **Sch.**

I200 Sch. 4 para. 8(1)(2)(d)(4)(a) 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)

I201 Sch. 4 para. 8(2)(a)-(c)(e)(3)(4)(b)(5)(6) in force at 15.4.2016 by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)

Fire (Scotland) Act 2005

9 In the Fire (Scotland) Act 2005—

(a) in section 41E (local fire and rescue plans), in subsection (6), for "Local Government in Scotland Act 2003 (asp 1)", substitute " Community Empowerment (Scotland) Act 2015 ", and

(b) in section 41J (Local Senior Officers), in subsection (2)(c), for "section 16(1)(d) of the Local Government in Scotland 2003 (asp 1) (duty to participate in community planning)", substitute " Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning) ".

Commencement Information

I202 Sch. 4 para. 9 in force at 20.12.2016 by S.S.I. 2016/410, **art. 2(a)**

Schools (Consultation) (Scotland) Act 2010

10 In the Schools (Consultation) (Scotland) Act 2010, in schedule 2 (relevant consultees)—

(a) for sub-paragraph (h) of each of paragraphs 1, 2, 3, 4 and 5, substitute—

"(h) the community planning partnership (within the meaning of section 4(5) of the Community Empowerment (Scotland) Act 2015) for the area of the local authority in which any affected school is situated,

(ha) any other community planning partnership that the education authority considers relevant,", and

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

(b) for sub-paragraph (h) of paragraph 10, substitute—

"(h) the community planning partnership (within the meaning of section 4(5) of the Community Empowerment (Scotland) Act 2015) for the area of the local authority in which the further education centre is situated,".

Commencement Information

I203 Sch. 4 para. 10 in force at 20.12.2016 by S.S.I. 2016/410, **art. 2(a)**

Public Services Reform (Scotland) Act 2010

11 In section 115 of the Public Services Reform (Scotland) Act 2010 (joint inspections), in subsection (12), for the words from "means" to the end of the subsection, substitute " is to be construed in accordance with section 7 of the Children and Young People (Scotland) Act 2014. ".

Commencement Information

I204 Sch. 4 para. 11 in force at 20.12.2016 by S.S.I. 2016/410, **art. 2(a)**

Police and Fire Reform (Scotland) Act 2012

12 In the Police and Fire Reform (Scotland) Act 2012—

(a) in section 46 (duty to participate in community planning), in subsection (2), for "section 16(1)(e) of the Local Government in Scotland Act 2003", substitute " Part 2 of the Community Empowerment (Scotland) Act 2015 ", and

(b) in section 47 (local police plans), in subsection (11), for "Local Government in Scotland Act 2003 (asp 1)", substitute " Community Empowerment (Scotland) Act 2015 ".

Commencement Information

I205 Sch. 4 para. 12 in force at 20.12.2016 by S.S.I. 2016/410, **art. 2(a)**

SCHEDULE 5

(introduced by section 144(2))

REPEALS

Commencement Information

I206 Sch. 5 in force at 15.4.2016 for specified purposes by S.S.I. 2015/399, art. 2, **Sch.** (with art. 3)

I207 Sch. 5 in force at 20.12.2016 for specified purposes by S.S.I. 2016/410, **art. 2(b)**

I208 Sch. 5 in force at 1.4.2018 for specified purposes by S.S.I. 2017/458, art. 2, **sch.** (with arts. 3, 5-11)

Status: *Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015. (See end of Document for details)*

Enactment	***Extent of repeal***
Allotments (Scotland) Act, 1892	The whole Act.
Land Settlement (Scotland) Act, 1919	Part 3 and paragraph 6 of the First Schedule.
Allotments (Scotland) Act 1922	The whole Act.
Agricultural Land (Utilisation) Act 1931	Section 24(j).
Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947	Section 1(4)(b).
Allotments (Scotland) Act 1950	The whole Act.
Emergency Laws (Miscellaneous Provisions) Act 1953	Section 5(6).
Opencast Coal Act 1958	In the Eighth Schedule, in paragraph 10(h), the words from “but” to the end.
Town and Country Planning (Scotland) Act 1959	Section 26.
Local Government (Scotland) Act 1973	In Schedule 27, paragraphs 16 to 20, 54 and 58 to 60.
Local Government etc. (Scotland) Act 1994	In Schedule 13, paragraphs 6, 12 and 35.
Local Government in Scotland Act 2003	Part 2.
	Section 57(2)(b).
Land Reform (Scotland) Act 2003	In section 38(1), paragraph (a) and, in paragraph (b), the word “substantial” where it appears in each of sub-paragraphs (i) and (ii).
	Section 40(4)(g)(iv).
	In section 50, subsection (2)(b).
	In section 51, subsection (3)(a).
	In section 52, subsection (2).
	In section 61(3), the words from “or” to “person”.
	In section 62, subsections (5) and (6) and, in subsection (7), the words “within 4 weeks of the hearing of the appeal”.
	In section 98(5), the word “33”.

Status:
Point in time view as at 01/04/2018. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015.