# **EXPLANATORY NOTES**

# LAND REFORM (SCOTLAND) ACT 2016

### **INTRODUCTION**

### **COMMENTARY ON SECTIONS**

### PART 1 – LAND RIGHTS AND RESPONSIBILITIES STATEMENT

- Section 1 Land rights and responsibilities statement
- Section 2 Publication and review of land rights and responsibilities statement
- Section 3 Duty to promote land rights and responsibilities statement

# PART 2 – THE SCOTTISH LAND COMMISSION

### Chapter 1 – the Commission

### **Establishment**

- Section 4 The Scottish Land Commission
- Section 5 Status

### **Functions of the Commission**

- Section 6 Functions of the Commission
- Section 7 General powers

# Strategic plan and programme of work

- Section 8 Strategic plan
- Section 9 Programme of work

# Membership

- Section 10 Membership
- Section 11 Eligibility for appointment
- Section 12 Disqualification from membership
- Section 13 Resignation and removal

### Remuneration and staff

Section 14 – Remuneration, allowances and pensions

Section 15 - Staff

### **Operational matters**

Section 16 – Validity of things done

Section 17 – Committees

Section 18 – Regulation of procedure

# Accounts and annual report

Section 19 – Accounts

Section 20 - Annual report

### **Application of public bodies legislation**

Section 21 – Application of legislation relating to public bodies

### **Chapter 2 – the Land Commissioners**

### **Functions of the Land Commissioners**

Section 22 – Functions of the Land Commissioners

### **Land Commissioners: delegation of functions**

Section 23 – Land Commissioners: delegation of functions

# **Chapter 3 – the Tenant Farming Commissioner**

# **Functions of the Tenant Farming Commissioner**

Section 24 – Functions of the Tenant Farming Commissioner

Section 25 – Tenant Farming Commissioner: delegation of functions

Section 26 – Acting Tenant Farming Commissioner

# **Tenant Farming Commissioner: codes of practice**

Section 27 – Tenant Farming Commissioner: codes of practice

Section 28 – Tenant Farming Commissioner: promotion of codes of practice

# **Tenant Farming Commissioner: inquiry function**

Section 29 – Application to inquire into breach of code of practice

Section 30 – Procedure for inquiry

Section 31 – Enforcement powers

### These notes relate to the Land Reform (Scotland) Act 2016 (asp 18)

- Section 32 Notice of non-compliance penalty
- Section 33 Report on inquiry
- Section 34 Tenant Farming Commissioner: confidentiality of information
- Section 35 Protection from actions for defamation
- Section 36 Report on operation of agent of landlords and tenants
- Section 37 Recommendations by Tenant Farming Commissioner for modern list of improvements

# **Tenant Farming Commissioner: power to refer questions of law to Land Court**

Section 38 – Referral of questions of law by Tenant Farming Commissioner to Land Court

### PART 3 - INFORMATION ABOUT CONTROL OF LAND ETC.

# Information about persons with controlling interests in relation to land

- Section 39 Information about persons with controlling interests in owners and tenants of land
- Section 40 Procedure for first regulations under section 39
- Section 41 Procedure for first regulations under section 39: consultation
- Section 42 Procedure for first regulations under section 39; explanatory document

# Information relating to proprietors of land etc.

Section 43 – Power of Keeper to request or require information relating to proprietors of land etc.

# PART 4 – ENGAGING COMMUNITIES IN DECISIONS RELATING TO LAND

Section 44 – Guidance on engaging communities in decisions relating to land

# PART 5 – RIGHT TO BUY LAND TO FURTHER SUSTAINABLE DEVELOPMENT

# **Key terms**

- Section 45 Meaning of "land"
- Section 46 Eligible land
- Section 47 Eligible land: salmon fishings and mineral rights
- Section 48 Eligible land: tenant's interests
- Section 49 Part 5 community bodies

- Section 50 Provisions supplementary to section 49
- Section 51 Interpretation of Part

# Register of Applications by Community Bodies to Buy Land

- Section 52 Register of Applications by Community Bodies to Buy Land
- Section 53 Inclusion in New Register of applications for right to buy abandoned, neglected or detrimental land

# **Applications for consent**

- Section 54 Right to buy: application for consent
- Section 55 Right to buy: application procedure
- Section 56 Right to buy: Ministers' decision on application
- Section 57 Ballot to indicate approval for purposes of section 56
- Section 58 Right to buy same land exercisable by only one Part 5 community body
- Section 59 Consent conditions
- Section 60 Notification of Ministers' decision on application

# **Procedure following consent**

- Section 61 Effect of Ministers' decision on right to buy
- Section 62 Confirmation of intention to proceed with purchase and withdrawal
- Section 63 Completion of purchase
- Section 64 completion of transfer
- Section 65 Assessment of value of land etc.
- Section 66 Acquisition of interest of tenant over land: allocation of rents etc.

### **Compensation**

- Section 67 Compensation
- Section 68 Grants towards liabilities to pay compensation

### **Appeals and references**

- Section 69 Appeals to sheriff
- Section 70 Appeals to Lands Tribunal: valuation
- Section 71 Reference to Lands Tribunal of questions on applications

Section 72 – Agreement as to matters appealed

### Mediation

Section 73 – Mediation

# PART 6 – ENTRY IN VALUATION ROLL OF SHOOTINGS AND DEER FORESTS

Section 74 – Repeal of exclusion of shootings and deer forests from valuation roll

Section 75 – Valuation of shootings and deer forests

Section 76 – Net annual value of deer forests

### PART 7 - COMMON GOOD LAND

Section 77 – Change of use of land forming part of the common good

### **PART 8 – DEER MANAGEMENT**

Section 78 – Functions of deer panels

Section 79– Review of compliance with code of practice on deer management

Section 80 – Deer management plans

Section 81 – Power to require return on number of deer planned to be killed

Section 82 - Increase in penalty for failure to comply with control scheme

### **PART 9 – ACCESS RIGHTS**

### **Core paths**

Section 83 – Core paths plans

# **Court applications**

Section 84 – Access rights: service of court applications

### PART 10 - AGRICULTURAL HOLDINGS

### **Chapter 1 – Modern Limited Duration Tenancies**

# **Modern limited duration tenancies**

Section 85 – Modern limited duration tenancies: creation

Section 86 – Modern limited duration tenancies: subletting

Section 87 – Modern limited duration tenancies: termination and continuation

Section 88 – Modern limited duration tenancies: fixed equipment

Section 89 – Modern limited duration tenancies: irritancy

### **Conversion of 1991 Act tenancies**

Section 90 – Conversion of 1991 Act tenancies into modern limited duration tenancies

Section 91 - Conversion of limited duration tenancies into modern limited duration tenancies

# **Chapter 2– Repairing Tenancies**

Section 92 – Repairing tenancies: creation

Section 93 – subletting

Section 94 – Repairing tenancies: termination, continuation and extension

Section 95 – Repairing tenancies: fixed equipment

Section 96 – Repairing tenancies: resumption of land by landlord

Section 97 – Repairing tenancies: irritancy

Section 98 – Repairing tenancies: compensation

### **Chapter 3 – Tenant's Right to Buy**

Section 99 – Tenant's right to buy: removal of requirement to register

### Chapter 4 – Sale Where Landlord in Breach

Section 100 – Sale to tenant or third party where landlord in breach of order or award

# **Chapter 5 – Rent Review**

### 1991 Act tenancies: rent review

# Limited duration tenancies, modern limited duration tenancies and repairing tenancies: rent review

Section 102 – Limited duration tenancies, modern limited duration tenancies and repairing tenancies: rent review

### Chapter 6 – Assignation of and Succession to Agricultural Tenancies

# **Assignation**

Section 103 – Assignation of 1991 Act tenancies

Section 104 – Assignation of limited duration tenancies

Section 105 – Assignation of modern limited duration tenancies

Section 106 – Assignation of repairing tenancies

### **Succession**

Section 107 – Bequest of 1991 Act tenancies

Section 108 – Limited duration tenancies, modern limited duration tenancies and repairing tenancies: succession

# Landlord's objection to tenant's successor

Section 109 – Objection by landlord to legatee or acquirer on intestacy

### **Chapter 7 – Relinquishing and Assignation of 1991 Act Tenancies**

Section 110– Tenant's offer to relinquish 1991 Act tenancy

Section 111 – Tenant's offer to relinquish 1991 Act tenancy: consequential modifications

# **Chapter 8 – Compensation for Tenant's Improvements**

### **Amnesty for tenant's improvements**

Section 112 – Amnesty for certain improvements by tenant

Section 113 – Amendment of the Agricultural Holdings (Scotland) Acts

Section 114 – Amnesty notice

### Objection to amnesty notice and referral to Land Court

Section 115 – Objection by landlord

Section 116 - Referral to Land Court

# Agreements made during amnesty period

Section 117 – Amnesty agreements

Section 118 – Arbitration and other dispute resolution

# Chapter 9 – Improvements by Landlord

Section 119 – Notice required for certain improvements by landlord

Section 120 – Rent increase for certain improvements by landlord

### **Chapter 10 – Diversification**

Section 121 – Use of land for non-agricultural purposes: objection to notice of diversification

Section 122 – Use of land for non-agricultural purposes: requests for information

# Chapter 11 - Irritancy for Non-Payment of Rent

Section 123 – Irritancy for non-payment of rent

# PART 11 – SMALL LANDHOLDINGS

Section 124 – Review of small landholdings legislation

# PART 12 – GENERAL AND MISCELLANEOUS

Section 125 – General interpretation

Section 126 – Subordinate legislation

Section 127 – Ancillary provision

Section 128 – Crown application

Section 129 – Minor and consequential modifications

Section 130 - Commencement

Section 131 – Short title

# **SCHEDULES**

# **PARLIAMENTARY HISTORY**