

LAND REFORM (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 3 the Crofting Community Right to Buy

Section 77: Reference to Land Court of purchase of eligible additional land without owners consent

303. This section deals with cases in which the crofting community body applies to include eligible additional land in the transfer and the owner of the land does not agree that such land should be included.
304. In cases where the owner of eligible additional land does not consent to it being bought under Part 3, subsection (1) requires Ministers to refer the question as to whether the application should proceed in the absence of such consent to the Scottish Land Court. In the event of such a reference subsection (2) provides who may make representations to the Court.
305. Subsection (3) provides that the Scottish Land Court may determine that the land may be bought without the owner's consent but only if it is satisfied that the criteria specified in that subsection have been met. It further provides that the effect of the Scottish Land Court so determining will be the same as if Ministers had been satisfied, for the purposes of section 74(1)(c) that the landowner had consented to the sale of this land. The specified criteria are:-
- that the acquisition must be essential to the development of the crofting community and that development must be compatible with furthering sustainable development;
 - that the purpose for which the purchase of that land is proposed cannot be achieved by other means available to the Scottish Land Court;
 - that the purchase will not be seriously prejudicial to the use and management of other land held by the land owner; and
 - that the total amount of additional land that can be purchased can be the greater of either an area of up to 5% of the total area of all land being purchased through the application and land already held by the crofting community body, which was previously acquired through the crofting community right to buy, or an area of up to 10 hectares.
306. Subsection (4) provides that where the Scottish Land Court approves the application it may require Ministers to impose conditions which will apply to the land to be transferred to the crofting community body.
307. Subsection (5) provides that if the purpose for which the crofting community body is seeking to acquire additional land can be met by imposing conditions on all or part of that land then the Scottish Land Court may make an order which approves the application without the additional land or part of it, providing that Ministers impose these title conditions on the eligible additional land or part of it when they consent to

*These notes relate to the Land Reform (Scotland) Act 2003
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the application. The effect of this is that the crofting community body would not gain ownership of the additional land, but if the crofting community right to buy is affected there would be conditions imposed on land retained by the landowner.

308. Subsection (6) provides that the effect of the Scottish Land Court approving the application in accordance with subsection (5) will be the same as if Ministers had been satisfied that the landowner had consented to the inclusion of this land.
309. Subsection (7) provides clarification as to the form that title conditions might take.