



# Land Reform (Scotland) Act 2003

## 2003 asp 2

### PART 3

#### THE CROFTING COMMUNITY RIGHT TO BUY

#### CHAPTER 1

##### GENERAL EXTENT OF CROFTING COMMUNITY RIGHT TO BUY

#### **68 Land which may be bought: eligible croft land**

(1) The land which may be bought under this Part of this Act is eligible croft land.

[<sup>F1</sup>(1A) But subsection (1) above is subject to section 69A below.]

(2) In this Part of this Act, “eligible croft land” means—

- (a) land within the meaning of “croft” given by section 3 (meaning of “croft” and “crofter”) of the Crofters (Scotland) Act 1993 (c. 44) (“the 1993 Act”) together with any land or right which is deemed by subsections (4) or (5) of that section to be a croft or part thereof (including arable machair and scattalds);
- (b) any land in which a tenant of a croft, whether alone or in common with others, has a right of pasture or grazing;
- (c) any land—
  - (i) comprising any part of a common grazing held by a tenant of a croft;  
or
  - (ii) held runrig by a tenant of a croft,  
which has not been apportioned for the exclusive use of a tenant of a croft under section 52 of the 1993 Act; and
- (d) any land which consists of salmon fishings in inland waters within or contiguous to, or mineral rights (other than rights to oil, coal, gas, gold or silver) in, land referred to in paragraphs (a) to (c) above (including any such fishings or rights which are owned separately from that land).

(3) Eligible croft land does not, however, include any croft occupied or worked by its owner or a member of its owner’s family.

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- (4) In subsection (3) above, 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 dwellinghouse on or pertaining to it.
- (5) In this Part of this Act, “inland waters” has the same meaning as in [F2section 69(1) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003].

#### Textual Amendments

- F1** S. 68(1A) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(2\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F2** Words in s. 68(5) substituted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), s. 142(1), [Sch. 4 para. 8\(5\)](#); S.S.I. 2015/399, [art. 2](#), Sch. (with [art. 3](#))

### 69 Land which may be bought: salmon fishings and mineral rights

- (1) A crofting community body may apply, under section 73 below, to buy eligible croft land which consists of salmon fishings or mineral rights only—
- (a) where—
    - (i) it is simultaneously applying; or
    - (ii) it has made an application in respect of which Ministers have not made a decision,
 to buy the croft land to which such fishings or rights relate; or
  - (b) during the relevant period.
- (2) Such an application may be made during the relevant period only where the crofting community body—
- (a) has provided confirmation under section 85(1) below of its intention to proceed to buy the croft land to which the fishings or rights relate; or
  - (b) has bought and retained that related croft land in accordance with the provisions of this Part of this Act.
- (3) In subsection (1) above, “relevant period” means the period beginning with the date on which Ministers consented to the application under section 73 below to buy the croft land to which the fishings or rights relate and ending—
- (a) where the crofting community body does not proceed to exercise its right to buy that related croft land, on the date on which it withdraws, under section 85(2) below, its confirmation to so proceed; or
  - (b) where the crofting community body has bought and retained that related croft land—
    - (i) in relation to salmon fishings, one year; or
    - (ii) in relation to mineral rights, five years,
 after the date on which the crofting community body bought that land.

### [F369A Land which may be bought: interest of tenant over land

- (1) This section applies where a tenancy which is neither—
- (a) a croft tenancy; nor

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- (b) the tenancy of a dwelling-house,  
has been created over land at least part of which is eligible croft land (the land over which the tenancy has been created being in this section referred to as the “tenanted land”).
- (2) Where this section applies, a crofting community body may apply, under section 73 below, to buy the interest mentioned in subsection (3) below—
- (a) where—
- (i) it is simultaneously applying; or
- (ii) it has made an application in respect of which Ministers have not made a decision,  
to buy eligible croft land any part of which is part of the tenanted land (any such eligible croft land being in this section referred to as the “principal subjects”); or
- (b) if the conditions set out in subsection (4) below are met, during the relevant period.
- (3) The interest is the interest of the tenant over so much of the tenanted land as is comprised within the principal subjects.
- (4) The conditions are that the crofting community body—
- (a) has provided confirmation under section 85(1) below of its intention to proceed to buy the principal subjects; or
- (b) has bought and retained those subjects in accordance with the provisions of this Part of this Act.
- (5) In subsection (2) above, “relevant period” means the period beginning with the date on which Ministers consented to the application under section 73 to buy the principal subjects and ending—
- (a) where the crofting community body does not proceed to exercise its right to buy those subjects, on the date on which it withdraws, under section 85(2) below, its confirmation so to proceed; or
- (b) where the crofting community body has bought and retained those subjects, five years after the date on which the crofting community body bought those subjects.]

#### Textual Amendments

- F3** S. 69A inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 31(2), 39, 43**; S.S.I. 2007/269, **art. 2, Sch.**

## 70 Land which may be bought in addition to eligible croft land

- (1) Where eligible croft land is being bought under this Part of this Act eligible additional land may also be so bought.
- (2) Where eligible croft land is being, or has been, bought under this Part of this Act eligible sporting interests may, subject to subsection (3) below, also be so bought.
- (3) Where the crofting community body have bought, and retained ownership of, eligible croft land in accordance with the provisions of this Part of this Act it may, within the period beginning with the date on which Ministers consented to the application

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under section 73 below to buy the eligible croft land and ending 5 years after the date on which the crofting community body bought that land, apply under that section to buy eligible sporting interests which have not previously been leased by the crofting community body under section 83 below.

(4) In this Part of this Act—

“eligible additional land” means, in relation to a crofting community body, land—

- (a) any part of which is contiguous to the eligible croft land which is being bought by the body; and
- (b) owned by the owner of such eligible croft land,

other than land which consists of salmon fishings in inland waters within or contiguous to, or mineral rights in, such land; and

“eligible sporting interests” means the rights of a person other than the owner of eligible croft land under any lease or other contract to shoot or fish on the land.

(5) The definition of “eligible sporting interests” in subsection (4) above does not include any right under a lease of salmon fishings in inland waters within or contiguous to eligible croft land.

## 71 Crofting community bodies

[<sup>F4</sup>(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.]

(1) A [<sup>F5</sup>body falls within this subsection if it is] a company limited by guarantee, the [<sup>F6</sup>articles of association] of which include the following—

- (a) a definition of the crofting community to which the company relates;
- (b) provision enabling the company to exercise the right to buy land [<sup>F7</sup>, the interest mentioned in section 69A(3)] and sporting interests under this Part of this Act;
- (c) provision that the company must have not fewer than [<sup>F8</sup>10] members;
- [<sup>F9</sup>(d) provision that at least three quarters of the members of the company are members of the crofting community,]
- (e) provision whereby the members of the company who consist of members of the crofting community have control of the company;
- (f) provision ensuring proper arrangements for the financial management of the company <sup>F10</sup> ... ;
- (g) provision that any surplus funds or assets of the company are to be applied for the benefit of the crofting community; and
- (h) provision that on the winding up of the company and after satisfaction of its liabilities, its property (including any land [<sup>F11</sup>, interest in land] and sporting interests acquired by it under this Part of this Act) passes—
  - (i) to such other crofting community body [<sup>F12</sup>, community body or Part 3A community body (as defined in section 97D)] as may be approved by Ministers; or
  - (ii) if no other such body is so approved, to Ministers or to such charity as Ministers may direct.

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- [<sup>F13</sup>(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 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.]
- (2) Ministers may, if they think it in the public interest to do so, disapply the requirement specified in subsection (1)(c) [<sup>F14</sup>, (1A)(c) or (1B)(c)] above in relation to any body they may specify.

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(3) In subsection (1) above, “company limited by guarantee” has <sup>[F15]</sup>the meaning given by section 3(3) of the Companies Act 2006.]

(4) A body is not a crofting 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.

<sup>[F16]</sup>(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.]

(5) A crofting community shall be defined for the purposes of subsection (1)(a) <sup>[F17]</sup>, (1A) (a) or (1B)(a)] above—

(a) as those persons who—

(i) are resident in the crofting township which is situated in or otherwise associated with the croft land which the crofting community body has a right to buy under this Part of this Act <sup>[F18]</sup>and who are entitled to vote in local government elections in the polling district or districts in which that township is situated] ; <sup>F19</sup>...

<sup>[F20]</sup>(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;]

and who are entitled to vote in local government elections in the polling district or districts in which that township or, as the case may be, that other place is situated; or

(b) if, in Ministers' opinion, it is inappropriate so to define the crofting community, in such other way as Ministers approve for the purposes of this paragraph.

(6) In subsection <sup>[F21]</sup>(5)(a)] above<sup>[F22]</sup>—

“crofting township” means—

(a) any two or more crofts which share the right to use a common grazing together with that common grazing and any houses pertaining to or contiguous to those crofts or that common grazing; or

(b) any combination of two or more crofting townships within that meaning.

<sup>[F23]</sup>“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.]

(7) The <sup>[F24]</sup>articles] of a company which is a crofting community body may, notwithstanding the generality of paragraph (h) of subsection (1) above, provide that its property may, in the circumstances mentioned in that paragraph, pass to another person only if that person is a charity.

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(8) In this section<sup>[F25—]</sup>

“charity” means a body <sup>[F26</sup>entered in the Scottish Charity Register].

<sup>[F27</sup>“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.]

### Textual Amendments

- F4** S. 71(A1) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(2)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F5** Words in s. 71(1) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(3)(a)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F6** Words in s. 71(1) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 218(3)(a)** (with art. 10)
- F7** Words in s. 71(1)(b) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(3)(b)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F8** Word in s. 71(1)(c) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(3)(c)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F9** S. 71(1)(d) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(3)(d)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F10** Words in s. 71(1)(f) repealed (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(3)(e)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F11** Words in s. 71(1)(h) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(3)(f)(i)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F12** Words in s. 71(1)(h)(i) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(3)(f)(ii)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F13** S. 71(1A)(1B) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(4)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F14** Words in s. 71(2) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(5)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F15** Words in s. 71(3) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 218(3)(b)** (with art. 10)
- F16** S. 71(4A)(4B) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(6)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)

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- F17** Words in s. 71(5) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(7)(a)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F18** Words in s. 71(5)(a)(i) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(7)(b)(i)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F19** Word in s. 71(5)(a) repealed (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(7)(b)(ii)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F20** S. 71(5)(a)(ii)-(iv) substituted for words (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(7)(b)(iii)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F21** Word in s. 71(6) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(8)(a)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F22** S. 71(6) hyphen inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(8)(b)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F23** Words in s. 71(6) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(8)(c)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F24** Words in s. 71(7) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 218(3)(c)** (with art. 10)
- F25** S. 71(8) hyphen inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(9)(a)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F26** Words in s. 71(8) substituted (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), ss. 104, 107(2), **Sch. 4 para. 13(b)**; S.S.I. 2006/189, **art. 2**, Sch.
- F27** Words in s. 71(8) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(9)(b)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)

## 72 Provisions supplementary to section 71

- [<sup>F28</sup>(1) A crofting community body—
- (a) which has bought land under this Part, any part of which remains in its ownership, and
  - (b) which modifies its memorandum, articles of association, constitution or registered rules (as defined in section 71(8)),
- must, as soon as possible after such modification, notify the Scottish Ministers in writing of the modification.]
- (2) If Ministers are satisfied that a body which has so bought land would, had it not so bought that land, no longer be entitled to do so, they may acquire the land compulsorily.
- [<sup>F29</sup>(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.



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- (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.]

#### Textual Amendments

**F28** S. 72(1) substituted (27.6.2018) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), s. 130(1), [sch. 1 para. 1\(4\)](#) (with s. 128); S.S.I. 2018/138, art. 3, sch. 2

**F29** S. 72(3)-(5) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 63\(b\)](#), 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)

## CHAPTER 2

### EXERCISE OF RIGHT TO BUY

#### 73 Application by crofting community body for consent to buy croft land etc.

- (1) The right to buy under this Part of this Act may be exercised only by a crofting community body.
- (2) That right may be so exercised only with the consent of Ministers given on the written application of the crofting community body.
- (3) That right may be exercised in relation to more than one holding of land or sporting interests [<sup>F30</sup>or more than one tenancy] but in order so to exercise the right an application must be made in respect of each such holding [<sup>F31</sup>or tenancy] and applications so made may be differently disposed of.
- (4) In subsection (3) above, a “holding” of land or of a sporting interest is land in the ownership of one person or in common or joint ownership or a sporting interest to which one person is entitled or to which there is a common or joint entitlement [<sup>F32</sup> and a “tenancy” is one where one person is entitled to the tenant's interest or there is a common or joint entitlement to that interest].
- (5) Such an application shall be made in the prescribed form [<sup>F33</sup>, shall specify the persons mentioned in subsection (5ZA)] and shall include or be accompanied by information of the prescribed kind including information (provided, where appropriate, by or by reference to maps or drawings) about—
  - (a) the location and boundaries of the land [<sup>F34</sup>, the subjects of the lease or the] sporting interests in respect of which the right to buy is sought to be exercised (the “subjects of the application”);
  - (b) all—
    - (i) rights and interests in the subjects of the application [<sup>F35</sup>known to the crofting community body];
    - <sup>F36</sup>(ii) .....

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- (c) whether the crofting community body proposes to exclude from the eligible croft land which it proposes to buy—
  - (i) salmon fishings in inland waters within or contiguous to; or
  - (ii) mineral rights in,
    - the land;
- (d) whether the crofting community body proposes a leaseback of sporting interests under section 83 below;
- (e) the proposed use, development and management of the subjects of the application;
- <sup>F37</sup>(f) .....
- (g) the extent to which the matters referred to in paragraph (e) above would consist of or support the sustainable use or development of the subjects of the application, including any land or sporting interests previously acquired by the crofting community body.

<sup>F38</sup>(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.]

<sup>F39</sup>(5A) Paragraphs (b) to (d) and (f) of subsection (5) above do not apply as respects an application made by virtue of section 69A(2) of this Act.]

<sup>F40</sup>(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.]

(6) A crofting community body applying under this section shall, at the same time as it applies—

- (a) send a copy of its application to the owner of the subjects of the application;
- <sup>F41</sup>(aa) in the case of an application made by virtue of section 69A(2) above, send a copy of its application to the tenant;] and
- (b) where there is a standard security over an interest in any subjects to which the application relates, send a copy of its application and the accompanying information to the creditor who holds the standard security and invite the creditor—
  - (i) to notify the crofting community body and Ministers, within 60 days of receipt of the invitation, if any of the circumstances set out in subsection (7) below 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.

(7) 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 (c. 35) in relation to the subjects in which the crofting community body is seeking to exercise its

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- right to buy or any part of those subjects 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 those subjects or any part of those subjects has not been complied with and the person on whom the notice was served has not, within the 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; and
  - (d) the court has granted the creditor a warrant under section 24 of that Act in relation to those subjects or any part of those subjects.
- (8) On receipt of an application, Ministers shall—
- (a) invite—
    - (i) the owner of or, as the case may be, person entitled to the subjects of the application;
    - [<sup>F42</sup>(ia) in the case of an application made by virtue of section 69A(2) above, the tenant;]
    - (ii) the owners of all land contiguous to land which consists of the subjects of the application;
    - (iii) the Crofters Commission; 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; and
  - (b) send a copy of the invitation to the crofting community body.
- (9) If the subjects of the application include land other than eligible croft land, the invitation given under subsection (8)(a)(i) above shall seek the consent of the owner of that eligible additional land to its sale under this Part of this Act.
- (10) Ministers shall, as soon as may be after receiving an application, give public notice of it and of the date by which, under subsection (8)(a) above, 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.
- (11) That public notice shall be given by advertisement [<sup>F43</sup>in such manner as may be prescribed].
- (12) Ministers shall—
- (a) send copies of any views they receive under this section to the crofting 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.
- (13) Ministers shall, when considering whether to consent to an application under this section, have regard to all views on it and responses thereto which they have received in answer to invitations under this section.
- (14) Ministers shall decline to consider an application which—
- (a) does not comply with the requirements of or imposed under this section;
  - (b) is otherwise incomplete;

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- (c) discloses that the subjects of the application, or any part of them, are not within the respective definitions in sections 68 and 70 above; or
  - (d) otherwise indicates that it is one which Ministers would be bound to reject;
- and Ministers shall not be required to comply with subsections (8) to (13) above in relation to such an application.

- (15) Ministers shall not reach a decision on an application before—
- (a) the date which is 60 days after the last date on which the crofting community body may provide Ministers with a response to the invitation given under subsection (12) above; or
  - (b) if by that date the Land Court has not advised Ministers of its finding on any question referred to it under section 79(2) or 81(1) below in relation to the application, the date on which the Land Court provide Ministers with that finding.

#### Textual Amendments

- F30** Words in s. 73(3) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(3\)\(a\)\(i\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F31** Words in s. 73(3) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(3\)\(a\)\(ii\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F32** Words in s. 73(4) added (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(3\)\(b\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F33** Words in s. 73(5) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 64\(2\)\(a\)](#), 142(1); S.S.I. 2016/394, [art. 2](#), sch.; S.S.I. 2020/448, [art. 2](#) (with [art. 3](#))
- F34** Words in s. 73(5)(a) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(3\)\(c\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F35** Words in s. 73(5)(b)(i) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 64\(2\)\(b\)\(i\)](#), 142(1); S.S.I. 2016/394, [art. 2](#), sch.; S.S.I. 2020/448, [art. 2](#) (with [art. 3](#))
- F36** Words in s. 73(5)(b) repealed (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 64\(2\)\(b\)\(ii\)](#), 142(1); S.S.I. 2016/394, [art. 2](#), sch.; S.S.I. 2020/448, [art. 2](#) (with [art. 3](#))
- F37** S. 73(5)(f) repealed (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 64\(2\)\(c\)](#), 142(1); S.S.I. 2016/394, [art. 2](#), sch.; S.S.I. 2020/448, [art. 2](#) (with [art. 3](#))
- F38** S. 73(5ZA) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 64\(3\)](#), 142(1); S.S.I. 2016/394, [art. 2](#), sch.; S.S.I. 2020/448, [art. 2](#) (with [art. 3](#))
- F39** S. 73(5A) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(3\)\(d\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F40** S. 73(5AA) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 64\(4\)](#), 142(1); S.S.I. 2016/394, [art. 2](#), sch.; S.S.I. 2020/448, [art. 2](#) (with [art. 3](#))
- F41** S. 73(6)(aa) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(3\)\(e\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F42** S. 73(8)(a)(ia) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(3\)\(f\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.

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**F43** Words in s. 73(11) substituted for s. 73(11)(a)(b) (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), ss. **64(5)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)

## 74 Criteria for consent by Ministers

(1) Ministers shall not consent to an application under section 73 above unless they are satisfied—

- (a) that the croft land to which the application relates is eligible croft land;
- (b) that any additional land to which the application relates is eligible additional land;
- (c) that any eligible additional land is to be bought only at the request or with the consent of its owner;
- (d) that any salmon fishings to which the application relates are eligible croft land;
- (e) that any mineral rights to which the application relates are eligible croft land;
- (f) that any sporting interests to which the application relates are eligible sporting interests;
- (g) that the subjects of the application have not previously been bought under this Part of this Act and disposed of by the crofting community body;
- (h) that the owner is not—
  - (i) prevented from selling the subjects of the application; or
  - (ii) subject to any enforceable personal obligation (other than an obligation arising from any right mentioned in section 84(1) below), or order of the Land Court, to sell them otherwise than to the crofting community body;
- (i) that the crofting community body complies with the provisions of section 71 above;
- (j) that the exercise by the crofting community body of the right to buy under this Part of this Act is compatible with furthering the achievement of sustainable development;
- (k) that, where the subjects of the application are salmon fishings, mineral rights or sporting interests, the crofting community body has or is acquiring sufficient croft land to enable those subjects to be exploited so as to support the development of the crofting community defined in relation to that body in pursuance of section 71 above;
- (l) that the crofting community so defined are, in relation to the subjects of the application, an appropriate crofting community;
- (m) that the crofting community so defined have approved the proposal to exercise the right to buy; <sup>F44</sup>...
- (n) that it is in the public interest that the right to buy be exercised.
- <sup>F45</sup>(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

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

[<sup>F46</sup>(1A) But subsection (1)(a) above is subject to section 69A above.]

- (2) For the purposes of subsection (1)(n) above, the public interest includes the interest of any sector (however small) of the public which, in the opinion of Ministers, would be affected by the exercise of the right to buy, and such a sector includes a community as defined for the purposes of section 34(1)(a) above and a crofting community as defined for the purposes of section 71(1)(a) above.

#### Textual Amendments

- F44** Word in s. 74(1) repealed (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), ss. **65(a)**, 142(1); S.S.I. 2020/448, art. 2 (with art. 3)
- F45** S. 74(1)(o)-(r) inserted (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), ss. **65(b)**, 142(1); S.S.I. 2020/448, art. 2 (with art. 3)
- F46** S. 74(1A) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43(3)(4), **Sch. 1 para. 5(4)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.

## 75 Ballot to indicate approval for purposes of section 74(1)(m)

- (1) The crofting community, defined in pursuance of section 71 above in relation to the crofting community body which has applied to buy land [<sup>F47</sup>, the interest of a tenant over land] or sporting interests, are to be taken for the purposes of section 74(1)(m) above as having approved a proposal to buy if—
- (a) a ballot of the members of the crofting 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 crofting community body on the question whether the crofting community body should buy the land [<sup>F48</sup>, tenant's interest] or sporting interests; and
  - (b) the majority of—
    - (i) those voting; and
    - (ii) the members of the crofting community so defined who voted and who are tenants of crofts within the land which the crofting community body has applied to buy or, as the case may be, within land over which the sporting interests which the crofting community body has applied to buy may be exercised [<sup>F49</sup> or within the land over which the tenant's interest subsists],
 have voted in favour of the proposition that the crofting community body exercises its right to buy .
- (2) The ballot shall be conducted as prescribed; and the provisions prescribed shall include provision for the ascertainment and publication of the number of persons eligible to vote in the ballot, the number who did vote and the numbers of valid votes respectively cast for and against the proposition.
- (3) If the ballot is not so conducted, the crofting community body's right to buy the land [<sup>F50</sup>, tenant's interest] or sporting interests which are the subject of the body's application is, so far as proceeding on that application, extinguished.

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- (4) The crofting community body which conducts a ballot shall, within 21 days of the ballot (or, if its application under section 73 above is given before the expiry of that period, together with the application) and in the prescribed form of return, notify—
- (a) the result;
  - (b) the number of persons eligible to vote;
  - (c) the number of those persons who are tenants of crofts within the land which the body proposes to buy [<sup>F51</sup>or as the case may be within the land over which the tenant's interest subsists];
  - (d) the number of persons who voted and the number of those persons who are such tenants; and
  - (e) the number of persons who voted in favour of the proposal to buy and the number of those persons who are such tenants,
- to Ministers.

- [<sup>F52</sup>(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.]

- (5) Any person who, whether alone or in common with others—
- (a) has a right of pasture or grazing, or holds a common grazing, within the land which the crofting community body has applied to buy or, as the case may be, within land over which the sporting interests which the crofting community body has applied to buy may be exercised [<sup>F53</sup>or within the land over which the tenant's interest subsists]; or
  - (b) holds any part of that land runrig,

is, for the purposes of this section, to be regarded as a tenant of a croft within the land which the body proposes to buy [<sup>F54</sup>or within the land over which the tenant's interest subsists].

- [<sup>F55</sup>(6) Ministers may by regulations make [<sup>F55</sup>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,

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(f) the powers of such persons.]

#### Textual Amendments

- F47** Words in s. 75(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F48** Words in s. 75(1)(a) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F49** Words in s. 75(1)(b)(ii) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F50** Words in s. 75(3) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F51** Words in s. 75(4)(c) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F52** S. 75(4A)(4B) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 66(2)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F53** Words in s. 75(5)(a) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(d)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F54** Words in s. 75(5) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(d)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F55** S. 75(6)(7) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 66(3)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)

## 76 Right to buy same croft land exercisable by only one crofting community body

- (1) Only one crofting community body may exercise the right under this Part of this Act to buy the same land [<sup>F56</sup>tenant's interest] or sporting interests.
- (2) Where two or more such bodies have applied to buy the same land or sporting interests, it is for Ministers to decide which 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 thereto, which they have received in answer to invitations under section 73 above.
- (4) On Ministers so deciding—
  - (a) the other body's right to buy the land or [<sup>F57</sup>tenant's interest which is, or the] sporting interests which are the subject of the body's application is, so far as proceeding on that application, extinguished; and
  - (b) they shall notify—
    - [<sup>F58</sup>(i) each person invited, under section 73(8)(a), to send them views on the application,]
    - (ii) the bodies,
 of that fact.

#### Textual Amendments

- F56** Words in s. 76(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(6)(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.



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- F57** Words in s. 76(4)(a) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(6)(b)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F58** S. 76(4)(b)(i) substituted (24.2.2021) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 67, 142(1)**; S.S.I. 2020/448, **art. 2** (with art. 3)

## **77 Reference to Land Court of purchase of eligible additional land without owner's consent**

- (1) Where the owner of any eligible additional land to which an application under section 73 above relates has not requested, or consented to, the sale of that land Ministers shall refer to the Land Court the question of whether the eligible additional land may be bought by the crofting community body without the consent of its owner.
- (2) In considering any question referred to it under subsection (1) above, the Land Court may have regard to any representations made to it by—
  - (a) the applicant crofting 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 Land Court, appears to have an interest.
- (3) On a reference under subsection (1) above the Land Court may determine that eligible additional land may be purchased by the crofting community body without the consent of its owner (and such determination shall have the same effect as if Ministers had been satisfied as to the matter referred to in section 74(1)(c) above) but only if the court is satisfied—
  - (a) that the purchase of the eligible additional land by the crofting community body is essential to the development of the crofting community;
  - (b) that such development is compatible with furthering the achievement of sustainable development;
  - (c) that the purpose to which that land would be put cannot reasonably be achieved by means within the powers of the Court other than by its purchase under this Part of this Act by the crofting community body;
  - (d) that where that land forms part of an area of land all of which is in the same ownership, the purchase of the land will not seriously jeopardise the continued use and management of the remaining land; and
  - (e) that that land does not exceed, in area, whichever is the greater of—
    - (i) 10 hectares; or
    - (ii) 5 per cent of the combined area of the land and any croft land being bought or which had previously been bought under this Part of this Act by the crofting community body.
- (4) Where the Land Court determine, under subsection (3) above, that eligible additional land may be purchased by the crofting community body without the consent of its owner it may provide that Ministers shall, under section 80 below, make their consent to the application subject to the imposition, on transfer of the land, of such conditions upon the title to the land as the Court may specify.
- (5) If the Land Court considers that the purpose to which eligible additional land or any part of it is proposed to be put can be substantially achieved by imposing conditions upon the title to that land, it may make an order—
  - (a) approving the purchase of the land sought to be bought but not the eligible additional land or that part of it; and

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(b) providing that Ministers shall, under section 80 below, make their consent to the application subject to the imposition of such title conditions as the Court considers appropriate on the eligible additional land or, as the case may be, that part of it.

(6) An order under subsection (5) above has the same effect as Ministers being satisfied as to the matter set out in section 74(1)(c) above.

(7) The references in subsections (4) and (5) above to conditions upon the title to the land include references to real burdens and servitudes.

## **78      Modification of section 77(3)(a) to (e)**

(1) Ministers may, by order, modify the provisions of paragraphs (a) to (e) of subsection (3) of section 77 above.

(2) Modifications under subsection (1) above may include the addition of new paragraphs.

## **79      Additional land included at request of owner**

(1) Where the owner of eligible croft land or eligible additional land has, within the time limit for submitting views in pursuance of section 73 above, requested that eligible additional land or, as the case may be, further eligible additional land be included with the land to be bought under this Part of this Act, Ministers may, if they consider that it is in the public interest to do so, make it a condition of their proceeding to consider the application by the crofting community body that the body modifies its application so as to include in the land to be bought that eligible additional land as further such land.

(2) Ministers—

(a) may; and

(b) on being so required by the owner of land who has made such a request or the crofting community body in relation to whose application the condition referred to in subsection (1) above has been imposed, shall,

refer to the Land Court for its findings in fact in respect of any matter relating to the question of whether the additional land or further additional land should be included with the land to be bought.

(3) In considering any question referred to it under subsection (2) above, the Land Court may have regard to any representations made to it by—

(a) the applicant crofting 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 Land Court, appears to have an interest.

(4) On a reference under subsection (2) above, the Land Court shall report its findings in fact to Ministers.

(5) Where a referral is made to the Land Court under subsection (2) above, Ministers shall not consent to the application to which the referral relates before they have—

(a) received the Land Court's report of its findings in fact; and

(b) taken those findings into account when considering or further considering the application.

*Status: Point in time view as at 24/02/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Part 3. (See end of Document for details)*

## 80 Consent conditions

Ministers may make their consent to an application under section 73 above subject to conditions.

## 81 Reference to Land Court of questions on applications

(1) At any time before Ministers reach a decision on an application which has been made under section 73 above—

- (a) Ministers;
- (b) any person who is a member of the crofting community defined in relation to the applicant crofting community body in pursuance of section 71 above;
- [<sup>F59</sup>(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,]
- (c) any person who has any interest in the land or sporting interests which are the subject of the application giving rise to a right which is legally enforceable by that person;
- [<sup>F60</sup>(ca) where the subject of the application is a tenant's interest [<sup>F61</sup>—
  - (i) the tenant; and
  - (ii)] any person who has an interest in the lease, being an interest giving rise to a right which is legally enforceable by that person;]or
- (d) any person who is invited, under section 73(8)(a) above, to send views to Ministers on the application,

may refer to the Land Court any question (other than a question which Ministers may, or may be required to, refer under section 77(1) or 79(2) above) relating to the application.

(2) In considering any question referred to it under subsection (1) above, the Land Court may have regard to any representations made to it by—

- (a) the applicant crofting community body;
- (b) the owner of the land which is, or person entitled to the sporting interests which are, the subject of the application;
- [<sup>F62</sup>(ba) the tenant whose interest is the subject of the application;] or
- (c) any other person who, in the opinion of the Land Court, appears to have an interest.

(3) The Land Court—

- (a) shall 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 80 above, such conditions as the Court may specify.

(4) If the Land Court 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.

### Textual Amendments

- F59** S. 81(1)(ba)(bb) inserted (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 68(a)**, 142(1); [S.S.I. 2020/448](#), **art. 2** (with **art. 3**)

*Status: Point in time view as at 24/02/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Part 3. (See end of Document for details)*

- F60** S. 81(1)(ca) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(7\)\(a\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F61** Words in s. 81(1)(ca) inserted (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 68\(b\)](#), 142(1); S.S.I. 2020/448, [art. 2](#) (with [art. 3](#))
- F62** S. 81(2)(ba) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(7\)\(b\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.

## 82 Notification of Ministers' decision on application

- (1) Ministers shall give written notice, in prescribed form, of their decision upon an application, and their reasons for it, to—
- (a) the applicant crofting community body;
  - (b) the owner of the land or [<sup>F63</sup>as the case may be the tenant whose interest is the subject of the application or the] person entitled to the sporting interests to which the application relates;
  - (c) every other person who was invited, under section 73(8)(a) above, to send them views on the application; and
  - (d) where their decision is to consent to the application, to the Keeper of the Registers of Scotland.
- (2) The form of notice shall be prescribed so as to secure that the notice includes a full description of—
- (a) the land [<sup>F64</sup>, tenant's interest] or sporting interests to which the consent 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 80 above by virtue of subsections (4) or (5) of section 77 above.
- (3) The notice given under subsection (1) above shall—
- (a) contain information about the consequences of the decision notified and of the rights of appeal against it given by this Part of this Act; and
  - (b) state the date as at which the decision is effective.

### Textual Amendments

- F63** Words in s. 82(1)(b) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(8\)\(a\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F64** Words in s. 82(2)(a) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(8\)\(b\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.

## 83 Leaseback to owner of sporting interests

- (1) This section applies where—
- (a) at the date of an application under section 73 above, only the owner of the land to be bought is entitled to the sporting interests on the land;
  - (b) the crofting community body has indicated that it proposes a leaseback of those interests under section 73(5)(d) above;
  - (c) the owner, within the period of 60 days referred to in subsection (8) of that section, notifies Ministers in writing that the owner wishes a lease of those interests;
  - (d) Ministers have consented to the application; and

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- (e) the crofting community body and the owner of the land have not, prior to consent being given, provided Ministers with a copy of an agreement between them on the terms and conditions of the lease of those interests.
- (2) Where this section applies Ministers shall, within 7 days of consenting to the application, refer to the Land Court the question of what terms and conditions are appropriate for a lease of those sporting interests from the crofting community body to the owner.
- (3) The Land Court shall, subject to subsection (4) below, determine those terms and conditions.
- (4) Those terms and conditions shall include provision that—
  - (a) the annual rent shall be nominal;
  - (b) the duration of the lease shall be not less than 20 years; and
  - (c) the owner shall be entitled to assign the tenant’s interest under the lease,and the terms and conditions shall not prevent the lease from being recorded or registered under the Registration of Leases (Scotland) Act 1857 (c. 26).
- (5) The crofting community body shall, forthwith on completion of the transfer of the land, grant a lease accordingly to the owner of the land.
- (6) If a crofting community body refuses or fails to grant a lease in accordance with such terms and conditions as have been determined, the Land Court may authorise its principal clerk to adjust, execute and deliver the lease to the like force and effect as if done by the crofting community body.

#### **84 Effect on other rights of Ministers' decision on right to buy**

- (1) Any rights of pre-emption, redemption or reversion or deriving from any option to purchase otherwise exercisable over land or sporting interests which are the subject of an application by a crofting community body under this Part of this Act are—
  - (a) suspended as from the date when Ministers approve the body’s application under section 73 above to buy the land or sporting interests; and
  - (b) revived—
    - (i) when the transfer under this Part of this Act of the land or sporting interests to the body is completed; or
    - (ii) if such a transfer is not completed because the body does not (by virtue of withdrawing, under section 85 below, its application under section 73 above or its confirmation of its intention to proceed to buy or for any other reason) proceed to buy the land or sporting interests.
- (2) Any rights which a person has in land which a crofting community body is seeking to buy under this Part of this Act, being rights conferred on the person under—
  - (a) Part 2 of this Act;
  - (b) section 12 of the 1993 Act;
  - <sup>F65</sup>(c) .....are suspended as provided in paragraph (a) of subsection (1) above but revived in the circumstances set out in paragraph (b) of that subsection.
- (3) Nothing in this Part of this Act—
  - (a) affects the operation of an inhibition on the sale of the land;

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- (b) prevents an action of adjudication from proceeding; or
- (c) affects the commencement, execution or operation of any other diligence.

#### Textual Amendments

**F65** S. 84(2)(c) repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 2 para. 14(4)**; S.S.I. 2014/264, art. 2, sch. (with art. 4)

### 85 Confirmation of intention to proceed with purchase and withdrawal

- (1) A crofting community body's right to buy land [<sup>F66</sup>, the interest of a tenant over land] or sporting interests under this Act is exercisable only if, within 21 days of the date of notification under section 88(12) below, it sends notice confirming its intention to proceed to buy the land [<sup>F67</sup>, tenant's interest] or interests to Ministers and to the owner of the land or [<sup>F68</sup>, as the case may be, the tenant or the] person entitled to the interests.
- (2) A crofting community body may, at any time after—
  - (a) making an application under section 73 above, withdraw the application; or
  - (b) confirming its intention to proceed under subsection (1) above, withdraw that confirmation,
 by notice in writing to that effect sent to Ministers.
- (3) Ministers shall, within 7 days of receipt of notice under subsection (1) or (2) above, acknowledge receipt and send a copy of that acknowledgement to the owner of the land or [<sup>F69</sup>, as the case may be, the tenant or the] person entitled to the interests.

#### Textual Amendments

- F66** Words in s. 85(1) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, **Sch. 1 para. 5(9)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.
- F67** Words in s. 85(1) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, **Sch. 1 para. 5(9)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.
- F68** Words in s. 85(1) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, **Sch. 1 para. 5(9)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.
- F69** Words in s. 85(3) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, **Sch. 1 para. 5(9)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.

### 86 Completion of purchase

- (1) It is for the crofting 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; [<sup>F70</sup>to it of the land or sporting interests or as the case may be the assignation to it of the tenant's interest] and
    - (ii) impose any conditions (including any real burdens or servitudes) which Ministers, under section 80 above, require to be imposed upon the title to land; and
  - (b) in so doing, to ensure—
    - (i) that the subjects of the application to which Ministers have consented are the same as those to be transferred; [<sup>F71</sup>or assigned] and

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- (ii) that the transfer [<sup>F72</sup>or assignation] is to be effected in accordance with any other conditions imposed by Ministers under section 80 above.
- (2) Where the crofting community body is unable to fulfil the duty imposed by subsection (1)(b) above because part of the land or sporting interests in respect of which Ministers' consent was given is not owned by the person named as its owner or exercisable by the person named as the person entitled to them in the application under section 73 above, it shall refer that matter to Ministers.
- (3) On a reference under subsection (2) above, Ministers may direct—
- (a) that the right to buy be exercised as if the part of the land or interests not owned or not exercisable by the owner or person entitled so named had never been included in the description of the land or interests in the application to which they had consented; or
  - (b) that the crofting community body's right to buy the land or interests which are the subject of the body's application is, so far as proceeding on that application, extinguished.
- (4) The owner of the land or person entitled to the [<sup>F73</sup>sporting] interests being bought is obliged—
- (a) to make available to the crofting community body such deeds and other documents as are sufficient to enable the body to proceed to complete its title to the land or interests; and
  - (b) to transfer title accordingly.
- (5) If, within 6 weeks of the date on which Ministers consent to an application to buy land or sporting interests, the owner of the land or person entitled to the [<sup>F74</sup>sporting] interests refuses or fails to make those deeds and other documents available, or they cannot be found, the Land Court may, on the application of the crofting community body, order the owner or person entitled or any other person appearing to the Court to have those deeds and documents to produce them.
- (6) If the owner of the land or person entitled to the interests refuses or fails to effect such sufficient transfer as is mentioned in subsection (4) above, the Land Court may, on the application of the crofting community body, authorise its principal 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.
- [<sup>F75</sup>(7) In relation to an application made by virtue of section 69A(2) above, the tenant is obliged to make available to the crofting community body such deeds and other documents as are sufficient to enable the body to complete its acquisition of the tenant's interest and the tenant is obliged to effect the assignation of his interest accordingly.
- (8) If, within 6 weeks after the date on which Ministers consent to an application made by virtue of section 69A(2) above the tenant refuses or fails to make those deeds and other documents available, or they cannot be found, the Land Court may, on the application of the crofting community body, order the tenant or any other person appearing to the Court to have those deeds and documents to produce them.
- (9) If the tenant refuses or fails to effect the assignation of the tenant's interest in accordance with subsection (7) above, the Land Court may, on the application of the crofting community body, authorise its principal clerk to adjust, execute and deliver such deeds or other documents as will complete the assignation to the like force and effect as if done by the tenant.]

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### Textual Amendments

- F70** Words in s. 86(1)(a)(i) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(10)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F71** Words in s. 86(1)(b)(i) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(10)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F72** Words in s. 86(1)(b)(ii) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(10)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F73** Words in s. 86(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(10)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F74** Words in S. 86(5) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(10)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F75** Words in S. 86(7)-(9) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(10)(d)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

## 87 Completion of transfer

- (1) The consideration for the transfer of the land or sporting interests [<sup>F76</sup>or for the assignation of the tenant's interest] shall be its or their value as assessed under section 88 below.
- (2) That consideration shall, subject to subsections (3) and (4) below, 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 under section 73 above to buy the land [<sup>F77</sup>, the tenant's interest or the sporting] interests.
- (3) Where—
  - (a) [<sup>F78</sup>the crofting community body and, as the case may be, the owner, the tenant or the person entitled to the sporting interests] 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 [<sup>F79</sup>, the tenant's right or the sporting] interests under section 88 below has not been completed by a date 4 months after the consent date, the consideration shall 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 shall be paid not later than 2 months after the date of that determination.
- (4) Where, on the date the consideration is to be paid, the owner or person entitled to the interests is not able to effect the grant of a good and marketable title to the crofting community body [<sup>F80</sup>or as the case may be the tenant is not able to assign his interest to that 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 88(1) below as a fair estimate of what the consideration might be,

shall be consigned into the Land Court until that title is granted [<sup>F81</sup>or assignation is effected] or the crofting community body gives notice to the Court of its decision not to proceed to complete the transaction.



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- (5) Where the consideration remains unpaid after the date not later than which it is to be paid, the crofting community body's application under section 73 above in relation to the land [<sup>F82</sup>, the tenant's interest or the sporting] interests shall be treated as withdrawn.
- (6) Any heritable security which burdened the land [<sup>F83</sup> or tenant's interest immediately before—
- (a) title is granted to the crofting community body; or
  - (b) the tenant's interest is assigned to that body,
- in pursuance of this section shall, on the recording of that title or assignment] in the Register of Sasines or registration in the Land Register of Scotland of the body's interest in the land, cease to do so.
- (7) Where such a security also burdens land other than the land in respect of which title is granted to the crofting community body, the security shall not, by virtue of subsection (6) above, cease to burden that other land.
- [<sup>F84</sup>(7A) Where such a security also burdens a tenant's interest other than the tenant's interest assigned to the crofting community body, the security shall not, by virtue of subsection (6) above, cease to burden that other interest.]
- (8) Unless the creditors in right of any such security otherwise agree, the crofting community body shall pay to them according to their respective rights and preferences any sum which would, but for this subsection, be paid to the owner [<sup>F85</sup>, or as the case may be to the tenant,] by the crofting community body as consideration for the land [<sup>F86</sup>, tenant's interest or sporting] interests.
- (9) Any sum paid by a crofting community body under subsection (8) above shall be deducted from the sum which the body is to pay to the owner as consideration for the land [<sup>F87</sup> or as the case may be to the tenant as consideration for the interest of the tenant over the land].

#### Textual Amendments

- F76** Words in s. 87(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F77** Word in s. 87(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F78** Words in s. 87(3)(a) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(c)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F79** Word in s. 87(3)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(c)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F80** Words in s. 87(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(d)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F81** Words in s. 87(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(d)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F82** Words in s. 87(5) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F83** Words in s. 87(6) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(f)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F84** S. 87(7A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(g)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F85** Words in s. 87(8) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(h)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

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- F86** Words in s. 87(8) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(h)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F87** Words in s. 87(9) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(11)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

## CHAPTER 3

### VALUATION OF CROFT LAND

#### 88 Assessment of value of croft land etc.

- (1) Where Ministers consent to an application under section 73 above, they shall, subject to subsection (2) below, 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 or [F88 interests of a kind which is similar to the land, tenant's interest] or sporting interests being bought, to assess the value of the land [F89, tenant's interest] or sporting interests to which the application relates.
- (2) Where Ministers refer a question to the Land Court under section 83(2) above they shall delay appointing the valuer until a day which is within 7 days of the day on which the Land Court makes its determination in respect of that reference.
- (3) 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) above.
- (4) In assessing the value of land [F90, the interest of a tenant over land] or interests in pursuance of an appointment under subsection (1) above, a valuer—
  - (a) does not act on behalf of the owner of the land [F91, of the tenant, of the person entitled to the sporting interests or of the crofting community body which is exercising its right to buy the land, tenant's interest or sporting] interests under this Part of this Act; and
  - (b) shall act as an expert and not as an arbiter.
- (5) The value to be assessed is the market value of the land [F92, tenant's interest or sporting] interests as at the date when Ministers consented to the application under section 73 relating to the land [F93, interest] or interests.
- (6) The “market value” of land or interests is the aggregate of—
  - (a) the value it [F94, a tenant's interest or sporting] they 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 [F95, a tenant's interest or sporting interests, including (in the case of land or sporting interests)] depreciation caused by division of the land or interests by the transfer of land or interests to the crofting community body; and
  - (c) the amount attributable to any disturbance to the seller which may arise in connection with the transfer of the land [F96, tenant's interest or sporting] interests to the crofting community body.

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- (7) In arriving, for the purposes of this section, at the value which land <sup>F97</sup>, a tenant's interest or sporting] interests would have on the open market in the circumstances mentioned in subsection (6)(a) above—
- (a) account may be taken, in so far as a seller and buyer such as are mentioned in subsection (6) above would do so, of any factor attributable to the known existence of a person who (not being the crofting community body which is exercising its right to buy the land or interests) would be willing to buy the land <sup>F98</sup>, a tenant's interest or sporting] interests at a price higher than others would because of a characteristic of the land <sup>F99</sup>, a tenant's interest or sporting] interests which relates peculiarly to that person's interest in buying it;
  - (b) no account shall be taken of—
    - (i) any depreciation of the type mentioned in subsection (6)(b) above;
    - (ii) any disturbance of the type mentioned in subsection (6)(c) above;
    - (iii) the absence of the period of time during which the land <sup>F100</sup>, a tenant's interest or sporting] interests would, on the open market, be likely to be advertised and exposed for sale.
- (8) The expense of a valuation under this section shall be met by Ministers.
- (9) In carrying out a valuation under this section, the valuer shall invite the owner of the land or <sup>F101</sup>as the case may be the tenant, or the person entitled to the sporting] interests and the crofting community body which is exercising its right to buy the land <sup>F102</sup>, tenant's interest or sporting] interests to make representations in writing about the value of the land <sup>F103</sup>, interest] or interests and shall consider any representations made accordingly.
- <sup>F104</sup>(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).]
- (10) Where the crofting community body and the owner of the land or <sup>F105</sup>as the case may be the tenant, or the person entitled to the sporting] interests have agreed the valuation of the land <sup>F106</sup>, the tenant's interest or the sporting] interests they shall notify the valuer in writing of that valuation.
- (11) Where sporting interests in land which the body are seeking to buy are to be leased back to the owner of the land, the valuer shall, in assessing the value of those interests, take account of the terms and conditions of the lease which has been agreed between the owner and the body or, as the case may be, determined by the Land Court under section 83 above.
- <sup>F107</sup>(12) The valuer shall, within the period set out in subsection (13) below, notify Ministers, the crofting community body and as the case may be the owner of the land, the tenant

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or the person entitled to the sporting interests, of the assessed value of the land, tenant's interest or sporting interests; and if there is a determination under section 88A(1) below shall within that period notify the crofting community body and the tenant of the determination.]

(13) The period referred to in subsection (12) above is the period of [<sup>F108</sup>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 of this Act is not affected by any failure by a valuer to comply with the time limit specified in subsection (13) above.

### Textual Amendments

- F88** Words in s. 88(1) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F89** Words in s. 88(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F90** Words in s. 88(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(b)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F91** Words in s. 88(4) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(b)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F92** Words in s. 88(5) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F93** Words in s. 88(5) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(c)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F94** Words in s. 88(6) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(d)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F95** Words in s. 88(6)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(d)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F96** Words in s. 88(6)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(d)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F97** Words in s. 88(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F98** Words in s. 88(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F99** Words in s. 88(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F100** Words in s. 88(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F101** Words in s. 88(9) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(f)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F102** Words in s. 88(9) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(f)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F103** Words in s. 88(9) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(f)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F104** S. 88(9A)(9B) inserted (24.2.2021) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 69(a)**, 142(1); S.S.I. 2020/448, **art. 2** (with art. 3)
- F105** Words in s. 88(10) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(g)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F106** Words in s. 88(10) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(g)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

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**F107** S. 88(12) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(h)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

**F108** Word in s. 88(13) substituted (24.2.2021) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 69(b)**, 142(1); S.S.I. 2020/448, **art. 2** (with **art. 3**)

## **[<sup>F109</sup>88A Acquisition of interest of tenant over land: allocation of rents etc.**

- (1) Where an application made by virtue of subsection (2) of section 69A above does not relate to the entire tenanted land (“tenanted land” being construed in accordance with subsection (1) of that section), any resultant question as to the allocation, as between the tenant and the crofting community body, of rents payable or receivable, or as to the allocation as between them of rights and obligations generally, is to be determined by the valuer when, in pursuance of an appointment under section 88(1) above, he assesses the value of the interest of the tenant.
- (2) Any determination under subsection (1) above is to be such as the valuer considers equitable in all the circumstances.]

### **Textual Amendments**

**F109** S. 88A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 31(3)**, 43, (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

## **89 Compensation**

- (1) Any person, including an owner or former owner of land or person entitled to sporting interests [<sup>F110</sup>(and in the case of an application made by virtue of section 69A(2) above a tenant)], who has incurred loss or expense—
  - (a) in complying with the requirements of this Part of this Act following upon the making of an application under section 73 above by a crofting community body;
  - (b) as a result of the withdrawal by the crofting community body of its confirmation under section 85 above 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 crofting community body which made that application to complete the purchase,is entitled to recover the amount of that loss or expense from the crofting community body.
- (2) There is no such entitlement, however, where the application under section 73 above is refused.
- (3) Where such an application has been refused, the owner of the land [<sup>F111</sup>, the tenant or the person entitled to the sporting] interests who has incurred loss or expense as mentioned in subsection (1)(a) above is entitled to recover the amount of that loss or expense from Ministers.
- [<sup>F112</sup>(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),

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- (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) above, 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 Land Court.

#### **Textual Amendments**

- F110** Words in s. 89(1) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(13\)\(a\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F111** Words in s. 89(3) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(13\)\(b\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F112** S. 89(4) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), ss. 70, 142(1); S.S.I. 2016/394, [art. 2](#), sch.; S.S.I. 2020/448, [art. 2](#) (with [art. 3](#))

## **90 Grants towards crofting community bodies' liabilities to pay compensation**

- (1) Ministers may, in the circumstances set out in subsection (2) below, pay a grant to a crofting community body.
- (2) Those circumstances are—
  - (a) that after settlement of its other liabilities connected with the exercise of its right to buy land [<sup>F113</sup>, the interest of a tenant over land] or sporting interests under this Part of this Act, the crofting community body has insufficient money to pay, or to pay in full, the amount of compensation it has to pay under section 89 above;
  - (b) that the crofting 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) above obtain 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 crofting community body.
- (6) An application for such a grant shall be made in such form and in accordance with such procedure as are prescribed.
- (7) Ministers shall 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.



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### Textual Amendments

**F113** Words in s. 90(2)(a) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, Sch. 1 para. 5(14) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.

## CHAPTER 4

### APPEALS

#### 91 Appeals

- (1) The owner of the land or person entitled to the sporting interests to which an application under section 73 above relates [<sup>F114</sup>(and in the case of an application made by virtue of section 69A(2) above the tenant)] and any other person within subsection (2) below may, by summary application, appeal to the sheriff against Ministers' decision to consent to the application.
- (2) The persons within this subsection are—
  - (a) any person who is a member of the crofting community defined in relation to the applicant crofting community body in pursuance of section 71 above;
  - (b) any person who has any interest in the land [<sup>F115</sup>, lease] or sporting interests giving rise to a right which is legally enforceable by that person; and
  - (c) any person who was invited, under section 73(8)(a) above, to send views to Ministers on the application.
- (3) The applicant crofting community body may, by summary application, appeal to the sheriff against Ministers' decision to refuse its application under section 73 above.
- (4) Subsection (3) above does not extend to Ministers' decision under section 76 above upon which of two or more applications to buy the same land [<sup>F116</sup>or tenant's interest] they should consent to.
- (5) An appeal under subsection (1) or (3) above may be made only on a question of law and shall be lodged within 28 days of the date on which Ministers decided to consent to, or refuse, the application.
- (6) The sheriff in whose sheriffdom the land [<sup>F117</sup>which is the subject of the application (or as the case may be over which the tenancy has been created)] or any part of it is situated or the sporting interests or any part of them are exercisable has jurisdiction to hear an appeal under this section.
- (7) The sheriff shall dispose of an appeal under this section by ordering that Ministers' decision be adhered to or reversed and such an order shall have the same effect as if it were a decision taken by Ministers on the application.
- (8) Such an order is final.
- (9) Where the effect of such an order is the same as granting the application, the order may be made subject to any condition to which Ministers could have made their decision subject under section 80 above.
- (10) An order having the effect mentioned in subsection (9) above shall be consistent with any decision or findings of the Land Court under sections 77 or 81 above.

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### Textual Amendments

- F114** Words in s. 91(1) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(15\)\(a\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F115** Words in s. 91(2)(b) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(15\)\(b\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F116** Words in s. 91(4) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(15\)\(c\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.
- F117** Words in s. 91(6) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(15\)\(d\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.

## 92 Appeals to Land Court: valuation

- (1) The owner of land or [<sup>F118</sup>as the case may be the tenant or the] person entitled to the sporting interests the value of which has been assessed under section 88 above and the crofting community body which is exercising its right to buy the land [<sup>F119</sup>, tenant's interest or sporting] interests may appeal to the Land Court against the valuation [<sup>F120</sup>; and if the valuer has made a determination under section 88A(1) above the tenant and that body may so appeal against the determination.].
- (2) An appeal under this section shall state the grounds on which it is being made and shall be lodged within 21 days of the date of notification under section 88(12) above.
- (3) In an appeal under this section, the Land Court may reassess the value of the land or [<sup>F121</sup>as the case may be of the tenant's interest or the sporting interests and may substitute its own determination for any determination under section 88A(1) above.].
- (4) The valuer whose valuation [<sup>F122</sup>or determination] is appealed against may be a witness in the appeal proceedings.
- (5) The Land Court shall give reasons for its decision on an appeal under this section and shall issue a written statement of these reasons [<sup>F123</sup>—
  - (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.]

[<sup>F124</sup>(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.]
- (6) The validity of anything done under this Part of this Act is not affected by any failure of the Land Court [<sup>F125</sup>—
  - (a) to comply with the time limit specified in paragraph (a) of subsection (5) above, or



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- (b) to issue a written statement by the date referred to in paragraph (b) of that subsection.]
- [<sup>F126</sup>(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.]
- (7) Ministers are not competent parties to any appeal under this section by reason only that they appointed the valuer whose valuation [<sup>F127</sup>or determination] is the subject of the appeal.

#### Textual Amendments

- F118** Words in s. 92(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F119** Words in s. 92(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F120** Words in s. 92(1) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F121** Words in s. 92(3) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F122** Words in s. 92(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F123** S. 92(5)(a)(b) substituted for words (24.2.2021) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 71(a)**, 142(1); S.S.I. 2020/448, **art. 2** (with art. 3)
- F124** S. 92(5A) inserted (24.2.2021) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 71(b)**, 142(1); S.S.I. 2020/448, **art. 2** (with art. 3)
- F125** Words in s. 92(6) substituted (24.2.2021) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 71(c)**, 142(1); S.S.I. 2020/448, **art. 2** (with art. 3)
- F126** S. 92(6A)-(6C) inserted (24.2.2021) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 71(d)**, 142(1); S.S.I. 2020/448, **art. 2** (with art. 3)
- F127** Words in s. 92(7) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

## 93 Agreement as to matters referred or appealed

An appeal under sections 91 or 92 above does not prevent the parties from settling or otherwise agreeing the matter in respect of which the appeal was made between or among them.

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## CHAPTER 5

### GENERAL AND MISCELLANEOUS PROVISIONS

#### 94 Register of Crofting Community Rights to Buy

- (1) The Crofters Commission shall set up and keep (or secure that there is set up and kept) a register to be known as the Register of Crofting Community Rights to Buy (the “crofting register”).
- (2) The crofting register shall 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 registered in it—
  - (a) [<sup>F128</sup>where the crofting 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 <sup>F129</sup>...;
  - [<sup>F130</sup>(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,]
  - (b) a copy of the application;
  - (c) a copy of Ministers' decision consenting or refusing to consent to the exercise of the right to buy;
  - (d) a copy of—
    - (i) any notice of withdrawal by the crofting community body of an application to exercise the right to buy;
    - (ii) any notice of confirmation by the body of its intention to proceed to exercise that right;
    - (iii) any notice withdrawing that confirmation; and
    - (iv) any acknowledgement by Ministers of receipt of notice such as is mentioned in sub-paragraphs (i) to (iii) above; and
  - (e) such other information as Ministers consider appropriate.
- [<sup>F131</sup>(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.]
- (3) Ministers may, by order, modify paragraphs (a) to (e) of subsection (2) above.
- [<sup>F132</sup>(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

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or document is to be kept by or on behalf of Ministers separately from and not entered in the crofting register.

- (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).]
- (4) Any person who, under this Part of this Act, provides a document or other information, or makes a decision, which or a copy of which is to be registered in the crofting register shall, forthwith on providing the document or other information or, as the case may be, making the decision, give it or a copy of it to the Crofters Commission for the purpose of allowing it to be so registered.
- (5) The Crofters Commission shall ensure—
- (a) that the crofting 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 crofting register on payment of reasonable charges;
  - (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.
- (6) An extract so certified shall be sufficient evidence of the original.

#### Textual Amendments

- F128** Words in s. 94(2)(a) inserted (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 72(2)(a)(i)**, 142(1); S.S.I. 2020/448, art. 2 (with art. 3)
- F129** Words in s. 94(2)(a) repealed (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 72(2)(a)(ii)**, 142(1); S.S.I. 2020/448, art. 2 (with art. 3)
- F130** S. 94(2)(aa)(ab) inserted (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 72(2)(b)**, 142(1); S.S.I. 2020/448, art. 2 (with art. 3)
- F131** S. 94(2A)(2B) inserted (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 72(3)**, 142(1); S.S.I. 2020/448, art. 2 (with art. 3)
- F132** S. 94(3A)-(3C) inserted (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 72(4)**, 142(1); S.S.I. 2020/448, art. 2 (with art. 3)

## 95 Avoidance of disposal other than to crofting community body

- [<sup>F133</sup>(1) It is not competent for the owner of the land, or as the case may be the tenant or the person entitled to the sporting interests, to which an application under section 73 above relates—
- (a) to dispose of the land or sporting interests; or
  - (b) to assign the tenant's interest,
- after the consent date to any person other than the crofting community body which made the application.]
- (2) Subsection (1) above has no effect where the crofting community body has withdrawn the application or has otherwise decided not to proceed to exercise its right to buy the land [<sup>F134</sup>, tenant's interest or sporting] interests.

*Status: Point in time view as at 24/02/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Part 3. (See end of Document for details)*

(3) In subsection (1) above, “consent date” has the same meaning as in section 87 above.

#### **Textual Amendments**

**F133** S. 95(1) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(17\)\(a\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.

**F134** Words in s. 95(2) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(17\)\(b\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.

## **96 Limitation on effect of this Part**

Nothing in this Part of this Act—

- (a) affects any rights given by or under the 1993 Act or prevents a crofting community body from being a landlord for the purposes of that Act; or
- (b) prevents a crofting community body from having and exercising power to acquire land [<sup>F135</sup>(or an interest created over land)] or other property otherwise than under it.

#### **Textual Amendments**

**F135** Words in s. 96(b) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), ss. 39, 43, [Sch. 1 para. 5\(18\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, [art. 2](#), Sch.

## **97 Scottish Land Court**

- (1) Subject to sections 79 and 91 above, the Land Court shall have jurisdiction to hear and determine all matters, whether of law or fact, which arise under this Part of this Act and, subject to section 1(7) of the Scottish Land Court Act 1993 (c. 45) (referral of question of law to Inner House of the Court of Session), the decision of the Land Court in any case shall be final.
- (2) In section 1(7) of that Act of 1993, after the word “enactment” there is inserted “, or under Part 3 of the Land Reform (Scotland) Act 2003 (asp 2),”.
- (3) Paragraph 6(2) of Schedule 1 to that Act of 1993 (appeal against order or determination arrived at under a delegation of Land Court’s powers) does not apply in relation to any order made, or determination arrived at, in pursuance of a matter which arises under this Part of this Act.

### **[<sup>F136</sup>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.]

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*Status: Point in time view as at 24/02/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Part 3. (See end of Document for details)*

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**Textual Amendments**

**F136** S. 97ZA inserted (24.2.2021) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 73**, 142(1); S.S.I. 2020/448, **art. 2** (with **art. 3**)

**[<sup>F137</sup>97A Construction of certain references to “tenant”**

In this Part, “tenant”, in any case where the reference is not to a tenant of a croft, includes sub-tenant (analogous expressions being construed accordingly).]

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**Textual Amendments**

**F137** S. 97A inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 31(4)**, 43, (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

**Status:**

Point in time view as at 24/02/2021.

**Changes to legislation:**

There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Part 3.