



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.

[^{F1}(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

[^{F4}(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 [^{F5}body falls within this subsection if it is] a company limited by guarantee, the [^{F6}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 [^{F7}, 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 [^{F8}10] members;
- [^{F9}(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 ^{F10} ... ;
- (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 [^{F11}, interest in land] and sporting interests acquired by it under this Part of this Act) passes—
 - (i) to such other crofting community body [^{F12}, 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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- [^{F13}(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) [^{F14}, (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 ^[F15]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.

^[F16](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) ^[F17], (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 ^[F18]and who are entitled to vote in local government elections in the polling district or districts in which that township is situated] ; ^{F19}...

^[F20](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 ^[F21](5)(a)] above^[F22]—

“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.

^[F23]“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 ^[F24]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^[F25—]

“charity” means a body ^{[F26}entered in the Scottish Charity Register].

^{[F27}“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

- [^{F28}(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.
- [^{F29}(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)

Changes to legislation:

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