

Changes to legislation: There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015, SCHEDULE 4. (See end of Document for details)

SCHEDULE 4

(introduced by section 144(1))

MINOR AND CONSEQUENTIAL AMENDMENTS

Small Landholders (Scotland) Act 1911

- 1 In section 26 of the Small Landholders (Scotland) Act 1911 (supplementary provisions and restrictions), in subsection (3)(e), for “the Allotments (Scotland) Act, 1892, or the Local Government (Scotland) Act, 1894”, substitute “ Part 9 of the Community Empowerment (Scotland) Act 2015 ”.

Commencement Information

- I1** Sch. 4 para. 1 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, sch.

Compensation (Defence) Act 1939

- 2 In section 18 of the Compensation (Defence) Act 1939 (application to Scotland and Northern Ireland), in subsection (1), for “the Allotments Act, 1922 shall be construed as a reference to the Allotments (Scotland) Act, 1922”, substitute “ allotment gardens within the meaning of the Allotments Act, 1922 is omitted ”.

Commencement Information

- I2** Sch. 4 para. 2 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, sch. (with art. 4)

Agriculture (Scotland) Act 1948

- 3 (1) Section 86 of the Agriculture (Scotland) Act 1948 is amended as follows.
- (2) In the proviso to subsection (1), in paragraph (a), for “allotment gardens”, substitute “ allotments ”.
- (3) In subsection (3), for the definition of “allotment garden”, substitute—
- ““allotment” has the meaning given by section 107 of the Community Empowerment (Scotland) Act 2015;”.

Commencement Information

- I3** Sch. 4 para. 3 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, sch.

Opencast Coal Act 1958

- 4 (1) The Opencast Coal Act 1958 is amended as follows.
- (2) In section 41 (provisions as to allotment gardens and other allotments), in subsection (3), for the words from “the”, where it third occurs, to the end, substitute “ section 107 of the Community Empowerment (Scotland) Act 2015 ”.

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- (3) In the Eighth Schedule (tenancies of allotment gardens and other allotments), in paragraph 10—
- (a) for sub-paragraph (a), substitute—
 - “(a) paragraph 1 applies as if sub-paragraph (2) were omitted;”
 - (b) for sub-paragraph (b), substitute—
 - “(b) sub-paragraph (1) of paragraph 3 applies as if for “the Act of 1908 or the Act of 1922 or the Allotments Act, 1950, or by virtue of any other enactment relating to allotments” there were substituted “ Part 9 of the Community Empowerment (Scotland) Act 2015 ”;”
 - (c) for sub-paragraph (c), substitute—
 - “(c) sub-paragraph (2) of paragraph 3 applies as if—
 - (i) for “any of the enactments mentioned in the next following sub-paragraph” there were substituted “ Part 9 of the Community Empowerment (Scotland) Act 2015 (but excluding any compensation for disturbance) ”,
 - (ii) “garden” were omitted, and
 - (iii) for “subsection (2) of section two of the Act of 1922” there were substituted “section 127(2) of the Community Empowerment (Scotland) Act 2015;”
 - (d) in sub-paragraph (e), for the words from “for” to the end, substitute “ any reference to the Allotments Act, 1950 is to be read as a reference to Part 9 of the Community Empowerment (Scotland) Act 2015 ”, and
 - (e) for sub-paragraph (f), substitute—
 - “(f) sub-paragraph (1) of paragraph 5 applies as if for “section four or section five of the Act of 1922, or of subsection (4) of section forty-seven of the Act of 1908” there were substituted “ section 132 of the Community Empowerment (Scotland) Act 2015 ”;”.

Commencement Information

I4 Sch. 4 para. 4 in force at 1.4.2018 by S.S.I. 2017/458, art. 2, sch. (with art. 4)

Local Government (Scotland) Act 1973

- 5 In the Local Government (Scotland) Act 1973—
- (a) in section 73 (appropriation of land)—
 - (i) in subsection (2), the word “not” is repealed,
 - (ii) in that subsection, for “except with the consent of the Secretary of State”, substitute “ subject to sections 117 and 118 of the Community Empowerment (Scotland) Act 2015 ”, and
 - (iii) in subsection (3), after “allotments”, insert “ (within the meaning of section 107 of that Act) ”,
 - (b) in section 99 (general duties of auditors), in subsection (1)(c), for “sections 15 to 17 (community planning) of the Local Government in Scotland

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- Act 2003 (asp 1)”, substitute “ Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning) ”, and
- (c) in section 102 (reports to Commission by Controller of Audit), in subsection (1)(c)—
- (i) the words “and Part 2 (community planning)” are repealed, and
 - (ii) at the end, insert “ and Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning) ”.

Commencement Information

- I5** Sch. 4 para. 5(a) in force at 1.4.2018 by S.S.I. 2017/458, art. 2, sch. (with art. 4)
- I6** Sch. 4 para. 5(b)(c) in force at 20.12.2016 by S.S.I. 2016/410, art. 2(a)

Local Government Act 1992

- 6 In section 1 of the Local Government Act 1992 (publication of information as to standards of performance), in subsection (1)(b), for the words “Part 2 (community planning) of the Local Government in Scotland Act 2003 (asp 1)”, substitute “ Part 2 (community planning) of the Community Empowerment (Scotland) Act 2015 ”.

Commencement Information

- I7** Sch. 4 para. 6 in force at 20.12.2016 by S.S.I. 2016/410, art. 2(a)

Local Government in Scotland Act 2003

- 7 In section 57 of the Local Government in Scotland Act 2003 (power to modify enactments), in subsection (2)(a), for “, 13(1) or 15(1)”, substitute “ or 13(1) ”.

Commencement Information

- I8** Sch. 4 para. 7 in force at 20.12.2016 by S.S.I. 2016/410, art. 2(a)

Land Reform (Scotland) Act 2003

- 8 (1) The Land Reform (Scotland) Act 2003 is amended as follows.
- (2) In section 37 (registration of interest in land)—
- (a) in subsection (4)(a), after “sought”, insert “ to be registered ”,
 - (b) after subsection (7)(b), insert “and
 - (c) any notice sent under section 44A,”,
 - (c) in subsection (11)(c), for the words “not registrable land”, substitute “ excluded land as defined in section 33(2) above ”,
 - (d) in subsection (18), after paragraph (a), insert—
 - “(aa) where the decision is that such an interest is to be entered in the Register, contain information about the duties imposed under section 44A,”, and
 - (e) in subsection (19), after “above”, insert “ , including that subsection as modified by section 39(2)(b) below, ”.

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- (3) In section 51 (exercise of right to buy: approval of community and consent of Ministers)—
- (a) in subsection (2)(a)(i), the words “conducted by the community body” are repealed, and
 - (b) in subsection (6)—
 - (i) in paragraph (a), after “receipt”, insert “ by Ministers ”,
 - (ii) in that paragraph, the words “conducted by the body” are repealed, and
 - (iii) in paragraph (b), the words “conducted by those bodies” are repealed.
- (4) In section 52 (ballot procedure)—
- (a) in subsection (3)—
 - (i) for the words “community body which conducts a ballot”, substitute “ballotter appointed under section 51A ”,
 - (ii) after “notify”, insert “ Ministers, the community body, the owner of the land to which the ballot relates and any creditor in a standard security with a right to sell the land of ”,
 - (iii) the word “and” immediately following paragraph (c) is repealed,
 - (iv) after paragraph (d), insert—
 - “(e) the wording of that proposition, and
 - (f) any information provided by the ballotter to persons eligible to vote in the ballot.”, and
 - (v) the words “to Ministers” are repealed, and
 - (b) after subsection (4), insert—

“(5) Within 7 days of receiving notification under subsection (3) above, Ministers may—

 - (a) require the ballotter to provide such information relating to the ballot as they think fit,
 - (b) require the community body to provide such information relating to any consultation with those eligible to vote in the ballot undertaken during the period in which the ballot was carried out as Ministers think fit.

(6) The validity of anything done under this Part of this Act is not affected by any failure by a ballotter to comply with the time limit specified in subsection (4).”.
- (5) In section 68 (land which may be bought: eligible croft land), in subsection (5), for “the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c.26)”, substitute “ section 69(1) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 ”.
- (6) In section 98 (general and supplementary provisions)—
- (a) in subsection (5)—
 - (i) after “33,”, insert “ 35(4), ”,
 - (ii) for “78 or 94”, substitute “ 72(4), 78, 94 or 97E(4) ”, and

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- (iii) after “above”, insert “ or regulations made under section 34(A1)(b), (4A) or (4B), 38(2B), 71(A1)(b), (4A) or (4B), 97C(4), (5) or (6), 97D(1)(b), (7) or (8), 97F(9), 97H(6) or 97N(1) or (3) above ”,
- (b) after subsection (5), insert—
 - “(5A) In making a decision under section 38(1), 44(3), 51(1)(b), 73(2) or 97G(2), Ministers are to have regard to the International Covenant on Economic, Social and Cultural Rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 subject to—
 - (a) any amendments in force in relation to the United Kingdom for the time being, and
 - (b) any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.”, and
 - (c) in subsection (8), for “and 52(3)”, substitute “ , 52(3), 97G(7) and (9) and 97J(4) ”.

Commencement Information

- I9** Sch. 4 para. 8(1)(2)(d)(4)(a) in force at 13.11.2015 for specified purposes by S.S.I. 2015/358, art. 2, Sch.
- I10** Sch. 4 para. 8(1)(2)(d)(4)(a) in force at 15.4.2016 in so far as not already in force by S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- I11** Sch. 4 para. 8(2)(a)-(c)(e)(3)(4)(b)(5)(6) in force at 15.4.2016 by S.S.I. 2015/399, art. 2, Sch. (with art. 3)

Fire (Scotland) Act 2005

- 9 In the Fire (Scotland) Act 2005—
 - (a) in section 41E (local fire and rescue plans), in subsection (6), for “Local Government in Scotland Act 2003 (asp 1)”, substitute “ Community Empowerment (Scotland) Act 2015 ”, and
 - (b) in section 41J (Local Senior Officers), in subsection (2)(c), for “section 16(1) (d) of the Local Government in Scotland 2003 (asp 1) (duty to participate in community planning)”, substitute “ Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning) ”.

Commencement Information

- I12** Sch. 4 para. 9 in force at 20.12.2016 by S.S.I. 2016/410, art. 2(a)

Schools (Consultation) (Scotland) Act 2010

- 10 In the Schools (Consultation) (Scotland) Act 2010, in schedule 2 (relevant consultees)—
 - (a) for sub-paragraph (h) of each of paragraphs 1, 2, 3, 4 and 5, substitute—
 - “(h) the community planning partnership (within the meaning of section 4(5) of the Community Empowerment (Scotland) Act 2015) for the area of the local authority in which any affected school is situated,
 - (ha) any other community planning partnership that the education authority considers relevant,”, and

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- (b) for sub-paragraph (h) of paragraph 10, substitute—
- “(h) the community planning partnership (within the meaning of section 4(5) of the Community Empowerment (Scotland) Act 2015) for the area of the local authority in which the further education centre is situated.”.

Commencement Information

I13 Sch. 4 para. 10 in force at 20.12.2016 by S.S.I. 2016/410, art. 2(a)

Public Services Reform (Scotland) Act 2010

- 11 In section 115 of the Public Services Reform (Scotland) Act 2010 (joint inspections), in subsection (12), for the words from “means” to the end of the subsection, substitute “ is to be construed in accordance with section 7 of the Children and Young People (Scotland) Act 2014. ”.

Commencement Information

I14 Sch. 4 para. 11 in force at 20.12.2016 by S.S.I. 2016/410, art. 2(a)

Police and Fire Reform (Scotland) Act 2012

- 12 In the Police and Fire Reform (Scotland) Act 2012—
- (a) in section 46 (duty to participate in community planning), in subsection (2), for “section 16(1)(e) of the Local Government in Scotland Act 2003”, substitute “ Part 2 of the Community Empowerment (Scotland) Act 2015 ”, and
- (b) in section 47 (local police plans), in subsection (11), for “Local Government in Scotland Act 2003 (asp 1)”, substitute “ Community Empowerment (Scotland) Act 2015 ”.

Commencement Information

I15 Sch. 4 para. 12 in force at 20.12.2016 by S.S.I. 2016/410, art. 2(a)

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