

CROFTING REFORM ETC. ACT 2007

EXPLANATORY NOTES

BACKGROUND

The Act

Part 6: Crofting Community Right to Buy

Section 31: Crofting community right to buy

141. This section amends Part 3 (crofting community right to buy) of the Land Reform (Scotland) Act 2003 (“the 2003 Act”). It enables crofting communities that have successfully applied or are applying to buy land under the crofting community right to buy to also purchase the interest of the tenant in a lease over the land which they have bought or are buying.
142. [Section 31\(2\)](#) adds a new section 69A to the 2003 Act and thus amends that Act to allow a crofting community body to purchase a tenant’s interest in any lease over eligible croft land over which they are or will become the landlord. New section 69A(1) excludes certain leases from the new right to buy. This prevents the crofting community body from seeking to buy a croft tenancy or a tenancy of a dwelling house.
143. New section 69A(2) defines the circumstances under which a crofting community body may purchase the right over eligible croft land. The crofting community must be simultaneously applying to purchase eligible croft land or it must have made an application to purchase eligible croft land in respect of which Ministers have not made a decision. In terms of section 69A(3) it is only the tenant’s interest in the lease insofar as it coincides with the eligible croft land which can be acquired. Thus if the lease extends beyond the eligible croft land, that portion of the lease which is outwith the eligible croft land cannot be acquired. A crofting community may also purchase such rights during the “relevant period” in the circumstances specified in new section 69A(4). These circumstances are that the crofting community body wishing to purchase rights to eligible croft land must either have provided confirmation of its intention to purchase that land under section 85(1) of the 2003 Act or should have already bought and retained that land in accordance with the provisions of the 2003 Act.
144. New section 69A(5) defines “relevant period” as being the period beginning with the date on which Ministers consented to the application under section 73 of the 2003 Act to buy the eligible croft land and ending either on the date when the crofting community body does not proceed to exercise its right to buy and withdraws its application or, where the crofting community body has bought and retained that land, five years after the date on which the crofting community body bought that land.
145. [Section 31\(3\)](#) inserts a new section 88A into the 2003 Act to make provision for the situation where it is not the entire tenant’s interest in a lease which is being acquired by the crofting community body. In such circumstances any question as to the allocation of rents or rights and obligations generally payable or receivable under the lease will be determined by the valuer appointed under section 88(1) of the 2003 Act.

*These notes relate to the Crofting Reform etc. Act 2007
(asp 7) which received Royal Assent on 1 March 2007*

146. [Section 31\(4\)](#) inserts a new section 97A into the 2003 Act. That section states that “tenant” includes “sub-tenant”, with analogous expressions being construed accordingly.