

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Community rights to buy land

Modifications of Part 2 of Land Reform (Scotland) Act 2003 : the community right to buy

Introduction

54. [Sections 36 to 61](#) of the Act amend provisions of Part 2 of the Land Reform (Scotland) Act 2003 (“the 2003 Act”).
55. Part 2 of the 2003 Act provides bodies representing rural communities with rights to register an interest in land with which the community has a connection. These bodies have a right to purchase that land if the owner is willing to sell it. Part 2 of the 2003 Act sets out the land in respect of which an interest can be registered, and the procedure for registering an interest. It also sets out the circumstances in which the right to buy the land in respect of which an interest is registered arises and the procedures for exercising it (including procedures for valuation of the land, for appeals and for compensation).

Nature of land in which community interest may be registered

56. [Section 36](#) of the Act amends section 33 of the 2003 Act. Section 33 of the 2003 Act sets out the land in which a community body may register an interest. It provides that an interest can be registered in “registrable land”, which is anything other than “excluded land”. “Excluded land” is designated in the Community Right to Buy (Definition of Excluded Land) (Scotland) Order 2009 as land comprising the settlements listed in the order (which are all settlements of over 10,000 people). In this way, the community right to buy under the 2003 Act applies to community bodies representing rural communities.
57. Section 36(1)(a) of the Act removes references to “registrable land” in section 33(1) of the 2003 Act which means that an interest can be registered in any land other than “excluded land”. As a result, community bodies will be able to register an interest in respect of land across Scotland, irrespective of the size of settlement.
58. Section 36(1)(b) of the Act removes the power of the Scottish Ministers to define “excluded land” by order. It amends the definition of “excluded land” in section 33(2) of the 2003 Act to make reference to land consisting of a separate tenement in which an interest cannot be registered if these rights are owned independently of the land.
59. Section 36(1)(d) of the Act repeals subsections (3) to (7) of section 33 of the 2003 Act. Section 36(1)(c) inserts new subsection (2A) into section 33 of the 2003 Act which reflects the terms of the repealed subsection (6) to provide that a community interest may be registered in salmon fishings and mineral rights (other than rights to oil, coal, gas, gold or silver) which are owned separately from the land to which those interests relate.

Community bodies

*These notes relate to the Community Empowerment (Scotland)
Act 2015 (asp 6) which received Royal Assent on 24 July 2015*

60. [Section 37](#) of the Act modifies section 34 of the 2003 Act which defines a community body eligible to register an interest in land. Section 34 of the 2003 Act provides that a community body is a company limited by guarantee that meets certain criteria.
61. Section 37(2) of the Act inserts subsection (A1) into section 34 of the 2003 Act. This extends the types of body which may be community bodies under Part 2 of the 2003 Act to include Scottish charitable incorporated organisations (“SCIOs”), community benefit societies (“BenComs”) and any other type of body which Ministers specify in regulations. Section 37(2) also confers a power on Ministers to specify in regulations, and subsequently modify, any requirements which must be met by any such type of body.
62. Section 37(3)(e) of the Act provides an additional requirement that must be satisfied for a company limited by guarantee to be a community body. The company’s articles of association must make provision for the minutes of meetings to be given to a person on request within 28 days of the request being made if that request is reasonable. The articles of association must also allow the community body to withhold information, provided that reasons are given for doing so.
63. Section 37(3)(f) of the Act amends section 34(1)(h) of the 2003 Act to include reference to “Part 3A community bodies” which are provided for in the new Part 3A of the 2003 Act (inserted by section 74 of the Act). This means that community bodies eligible to apply to purchase land under the new Part 3A of the 2003 Act are among the alternative bodies to which community bodies under Part 2 of the 2003 Act may pass their assets upon winding up in terms of their articles of association.
64. Section 37(4) of the Act inserts new subsections (1A) and (1B) into section 34 of the 2003 Act, which set out the provisions that a SCIO or BenCom must include in its constitution or registered rules for it to be a community body and so eligible to apply to register an interest in land under Part 2 of the 2003 Act.
65. Section 37(5) of the Act amends section 34(2) of the 2003 Act to allow Ministers to disapply the requirement that the articles of association, constitution or registered rules must state that a community body must have a minimum of 10 members.
66. Section 37(6) of the Act inserts subsection (4A) into section 34 of the 2003 Act. This subsection gives Ministers the power to modify, by way of regulations, the criteria which must be met by companies limited by guarantee, SCIOs and BenComs in order to be community bodies under Part 2 of the 2003 Act.
67. Section 37(6) of the Act also inserts subsection (4B) into section 34 of the 2003 Act. This subsection gives Ministers the power to amend, by way of regulations, subsection (1) and the new subsection (A1) of section 35 of the 2003 Act (inserted by section 38 of the Act) where Ministers have exercised the power contained in the new subsection (A1)(b) of section 34 of the 2003 Act to extend, by way of regulation, the types of bodies which may be eligible to be community bodies under Part 2 of the 2003 Act. The power contained in subsection (4B) means that the prohibition on a community body modifying its articles of association, memorandum or constitution without the written consent of the Scottish Ministers can be amended to extend to any other kind of constitutive document which may apply to new types of body which may be community bodies as a result of the regulations made by Ministers under the new subsection (A1)(b) of section 34 of the 2003 Act.
68. Section 37(7) of the Act amends subsection (5) of section 34 of the 2003 Act which provides for the use of postcode units in order to define the community that the community body represents. Section 37(7) of the Act confers a power on Ministers to make regulations which prescribe other types of area by reference to which a community may define itself.
69. Section 37(8) of the Act inserts definitions of “community benefit society”, “registered rules” and “Scottish charitable incorporated organisation” into the 2003 Act.

Modification of memorandum, articles, constitution or registered rules

70. [Section 38](#) of the Act amends section 35 of the 2003 Act which provides that a community body may not modify its memorandum or articles of association without Ministers' consent whilst they hold a registered interest or own land purchased under Part 2 of the 2003 Act.
71. Section 38(2) of the Act inserts subsection (A1) into section 35 of the 2003 Act which prohibits a community body from modifying its memorandum, articles of association, constitution or registered rules without the consent of Ministers during a specified period prior to registration of an interest. Section 38(2) of the Act also inserts subsection (A2) into section 35 of the 2003 Act which provides that the specified period starts with the day a community body submits an application for a registered interest in land and ends with the registration of interest in land, rejection of the application to register land, Ministers declining to consider the application under section 39(5) of the 2003 Act or withdrawal of the application by the community body. This means that the existing prohibition which applies whilst the interest is registered and throughout the time they own land purchased under Part 2 of the 2003 Act (in terms of subsection (1) of section 35 of the 2003 Act) is extended to the period prior to registration.
72. Section 38(3) of the Act amends subsection (1) of section 35 of the 2003 Act to make reference to the "constitution" or "registered rules" of a community body. This amendment takes account of the inclusion of SCIOs and BenComs as bodies which may be community bodies.
73. Section 35(3) of the 2003 Act allows Ministers to compulsorily acquire land from a community body which has bought land but, had it not so bought that land, it would no longer be entitled to do so. Section 38(4) of the Act inserts subsections 35(4) and 35(5) into the 2003 Act which allow Ministers to make an order relating to, or to matters connected with, the compulsory acquisition of that land from the community body.

Register of Community Interests in Land

74. [Section 39](#) of the Act amends section 36 of the 2003 Act. Section 36 of the 2003 Act provides that the Keeper of the Registers of Scotland is required to set up and maintain the Register of Community Interests in Land. Section 36 also provides what information is to be publicly available via the Register, and requires a community body which is a company limited by guarantee to have its name and address in the Register. Subsections (1) and (2) of section 39 of the Act amend this, so that a community body which is a Scottish charitable incorporated organisation or community benefit society is also required to have its name and address in the Register.
75. Section 39(3) of the Act inserts subsections (5A) and (5B) into section 36 of the 2003 Act. Subsections (5A) and (5B) require a community body to notify the Keeper of a change to the community body's name or registered or principal office as soon as is reasonably practicable after the change has been made.

Public notice of certain applications

76. [Section 40](#) of the Act amends section 37(4) of the 2003 Act and inserts subsections (4A) and (4B). The new provisions set out that, where the owner of the land is unknown or cannot be found and the type of proposed application is one to register an interest in land consisting of salmon fishings or mineral rights which are owned separately from the land in respect of which they are eligible, Ministers have the power to set out in regulations the manner in which the public notice of the application must be made.

Criteria for registration of interest in land

77. [Section 41](#) of the Act amends section 38 of the 2003 Act which sets out the criteria which must be met before an application to register a community interest in land is approved by Ministers. Subsection (1)(d) of section 38 of the 2003 Act provides that there must be sufficient community support to justify the registration.

78. The word “substantial” is repealed in section 38(1)(b) of the 2003 Act and so the requirement concerning community members having a substantial connection with the land that the community body is seeking to register an interest in will be amended to just refer to a connection with that land. The repeal of “substantial” is effected by the repeals schedule (schedule 5 to the Act).
79. Section 38(1)(b) of the 2003 Act provides that Ministers must be satisfied that (i) a significant number of the members of the community must have a substantial connection with the land, and (ii) the land must be sufficiently near to land with which those members of the community have a substantial connection (“substantial” to be repealed as above). Section 41(a)(vi) of the Act adds 2 alternative criteria into section 38(1)(b) of the 2003 Act, in addition to the existing 2 criteria. The alternative criteria are (iii) where the community body is an eligible body for the purposes of Part 2 of the 2003 Act, that the land is in or sufficiently near to the area of the community, and (iv) where the community body is a body as prescribed by Ministers, the land is in or sufficiently near to the area of the community.
80. Section 41(c) of the Act inserts new subsections (2A) and (2B) into section 38 of the 2003 Act. Subsection (2A) precludes Ministers considering any community support that is dated earlier than 6 months before the date an application to register a community interest in land is received by Ministers. Subsection (2B) gives Ministers the power to amend the time limit in which the approval of a member of the community supporting a community body’s application must be dated. That time limit must not be less than 6 months.

Procedure for late applications

81. [Section 42](#) of the Act amends section 39 of the 2003 Act relating to the procedure for late applications. An application is deemed to be “late” when it is received by Ministers after the owner of the land to which an application relates has taken action to transfer the land but before missives are concluded, or an option to acquire is granted, in pursuance of that action.
82. Section 42(2) of the Act rewords subsection (1) of section 39 of the 2003 Act which sets out the conditions which must be met in order for section 39 to apply.
83. Section 42(3) of the Act inserts a new paragraph (aa) into section 39(2) of the 2003 Act. The new paragraph allows Ministers to request further information from the owner of the land or a creditor in a standard security with the right to sell the land before the end of the 7-day period following the landowner or the creditor giving their views on the application under section 37(5) of the 2003 Act. The owner of the land or the creditor must provide the information within 14 days of receipt of the request. This information is requested to ensure that Ministers have the necessary evidence on which to decide whether the application is “late”.
84. Section 42(3)(b) of the Act modifies subsection (2)(b)(ii) of section 39 of the 2003 Act to extend the time in which Ministers have to make a decision on whether the interest should be registered in the case of a “late” application where further information is requested. Where Ministers request further information, this period will be 44 days instead of 30 days.
85. Section 42(4) of the Act amends subsection (3) of section 39 of the 2003 Act which sets out matters on which Ministers must be satisfied, in addition to the matters set out in section 38, before approving a “late” application. Section 42(4) of the Act removes the requirement to show “good reasons” why an application was not submitted prior to the land coming on the market and replaces it with a requirement that such relevant work as Ministers consider reasonable was carried out by a person or such relevant steps as Ministers consider reasonable were taken by a person. Section 42(4) of the Act inserts paragraph (ab) into subsection (3) which provides that Ministers shall not consent to an application if the land was offered to the same or a ‘similar’ community body within the last 12 months, unless, in the opinion of Ministers, there are good reasons why the

body did not purchase the land. Section 42(9) of the Act inserts a new subsection (6) into section 39 of the 2003 Act to define “relevant work” and “relevant steps”. Section 42(9) of the Act also inserts subsection (7) into section 39 of the 2003 Act which defines references to “the land”, “an offer” and “similar community body” for the purposes of section 39(3)(ab).

86. Section 42(4) of the Act also inserts paragraph (aa) into section 39(3). This includes provision relating to the time within which the relevant work or steps must have been taken. It is for Ministers to determine whether the relevant work or steps were carried out sufficiently in advance of the landowner taking action with a view to selling the land or giving notice that a transfer was proposed under section 48(1). The new paragraph (aa) also provides that the relevant work or steps undertaken must be in relation to the land to which the application relates or other land being used for the same purposes as the land to which the application relates. The relevant work or steps are to have been carried out by the community body or by another person with a view to the application being made by the community body. Section 42(5) inserts subsection (3A) into section 39 which sets out that, in cases where there are good reasons that relevant work or steps have not been undertaken prior to the land being marketed for sale, and that there are good reasons to allow the late application despite the lack of relevant work or steps prior to the land being marketed for sale, Ministers may accept the application.
87. Section 42(5) of the Act also inserts a new subsection (3B) into section 39 of the 2003 Act. The new subsection (3B) allows Ministers to request further information about an application from any relevant party they deem necessary in connection with the criteria on which Ministers must be satisfied under section 39(3) of the 2003 Act. Ministers can request such information until the end of the 7-day period following receipt of the landowner’s views (or the views of a creditor in a standard security with a right to sell the land) under section 37(5) of the 2003 Act. Such additional information must be provided within 14 days of the request being made by Ministers.
88. Section 42(6) of the Act amends section 39(4)(c) of the 2003 Act which sets out the impact of an application being “late” on the community right to buy process. For the purposes of the provisions listed, the community body is deemed to have confirmed their intention to proceed with the purchase on the date on which the interest is registered. The amendment inserts a reference to the new section 60A(1) of the 2003 Act (inserted by section 57 of the Act).
89. Section 42(7) of the Act inserts a new subsection (4A) into section 39 of the 2003 Act and section 42(8) amends subsection (5) of the same. These provisions provide that where missives have been concluded in respect of the sale of land or an option conferred in respect of that land, Ministers must decline to consider the application. These amendments simplify the wording in the 2003 Act.
90. Section 42(9) of the Act provides for a new subsection (8) of section 39 of the 2003 Act which makes it clear that the land in respect of which the relevant work or steps have been carried out does not need to be the same land as that to which the application relates.

Evidence and notification of concluded missives or option agreements

91. [Section 43](#) of the Act inserts a new section 39A into the 2003 Act in relation to evidence and notification of concluded missives or option agreements. The new subsection (4A) and amended subsection (5) of section 39 of the 2003 Act (under section 42(7) and (8) of the Act) provide that where an application is received after missives have been concluded in respect of the land or an option conferred, Ministers must decline to consider the application. If the application did not disclose that missives have been concluded or an option conferred then the owner of the land (or a creditor in a standard security with a right to sell) must provide evidence of concluded missives or an option agreement to Ministers within 21 days of receiving a copy of the application under section 37(5)(a) of the 2003 Act. Additional information on option agreements must also be provided, namely, the date of the option agreement and whether or not and how

it may be extended. If the application does disclose that missives have been concluded or an option conferred and by virtue of section 39(4A) and (5) of the 2003 Act Ministers are not required to send a copy of the application to the land owner or a creditor in a standard security with a right to sell, then section 39A(4) will apply. This requires Ministers to send a copy of the application to the land owner and any such creditor and require them to provide evidence of the concluded missives or option conferred. The land owner and creditor will also be required to provide further information about the option conferred.

Notification of transfer

92. [Section 44](#) of the Act amends section 41 of the 2003 Act which is supplementary to and explanatory of section 40 of the 2003 Act. Section 40 of the 2003 Act prohibits owners and certain creditors from transferring land or taking action with a view to transferring land that is subject to a registered interest for so long as the interest is registered, other than in accordance with section 40(4) of the 2003 Act, which provides for “exempt” transfers.
93. [Section 44](#) of the Act inserts subsection (3) into section 41 of the 2003 Act. It requires that where an owner or a creditor in a standard security with a right to sell land makes a transfer in terms of section 40(4) of the 2003 Act, they must inform Ministers within 28 days of this taking place. The new subsection (3) of section 41 of the 2003 Act also sets out the information which the owner or creditor must provide.

Notice of expiry of registration

94. [Section 45](#) of the Act inserts subsections (6) and (7) into section 44 of the 2003 Act. Subsection (6) provides that Ministers must send a written notice to a community body of the expiry of their registered community interest in land. Subsection (7) provides that the notice must be sent no earlier than 12 months before the date on which the registered interest is due to expire, and Ministers will have a period of 28 days from that date in which to send the notification to the community body.

Changes to information relating to registered interests

95. [Section 46](#) of the Act inserts a new section 44A into the 2003 Act, which applies where a community interest in land is registered.
96. Subsection (2) of the new section 44A of the 2003 Act requires that where any change has been made in the contact information of a community body provided in its application to register an interest, that community body must inform Ministers of that change as soon as is reasonably practicable.
97. Subsection (3) of the new section 44A of the 2003 Act requires that where any change has been made in the contact information of an owner provided in an application by a community body, the owner must inform Ministers of any changes to their contact information as soon as is reasonably practicable.
98. Subsection (4) of the new section 44A of the 2003 Act requires that the owner of the land must in certain circumstances notify Ministers of any changes to the information in an application relating to a creditor in a standard security as soon as is reasonably practicable.
99. Subsections (5) and (6) of the new section 44A of the 2003 Act require that where there is a creditor in a standard security over an interest in land to which an application relates and the application does not disclose the existence of such a creditor (either because the existence of the creditor was omitted or because it did not exist at the time the application was made), the owner must notify Ministers of the existence of the creditor and its contact details as soon as is practicable after the registration of the interest.
100. Subsections (7) and (8) of the new section 44A of the 2003 Act require that a community body or owner of land must, as soon as is reasonably practicable, make Ministers aware of any subsequent changes to any information submitted under subsections (2), (3), (4) or (6) of the new section 44A of the 2003 Act.

Notification under section 50 of the 2003 Act

101. [Section 47](#) of the Act amends section 50 of the 2003 Act. Section 50(1) sets out the circumstances in which the Lands Tribunal must notify Ministers that a landowner or creditor in a standard security with a right to sell the land has acted in breach of a prohibition notice under section 37(5)(e) or section 40(1) of the 2003 Act.
102. Section 47(a) of the Act amends subsection (3)(b) of section 50 of the 2003 Act. It inserts reference to any creditor with a right to sell the land. This requires Ministers to send a copy of the notice from the Lands Tribunal under section 50(1) to such a creditor as well as to the owner of the land.
103. Section 47(b) of the Act provides for a new subsection (6) to be inserted in section 50 of the 2003 Act. This sets out that a community interest in land remains in effect for the purposes of section 50(2)(c) where a community body has applied to re-register an interest under section 44(2) of the 2003 Act and the Keeper has re-entered the interest on the Register accordingly. Where a registered interest in land under consideration by the Lands Tribunal is due to expire, the relevant community body should ensure that it re-registers their interest in terms of section 44(2) of the 2003 Act. Section 50(2)(b) of the 2003 Act is repealed.

Approval of members of community to buy land

104. [Section 48](#) of the Act amends section 51(2)(a) of the 2003 Act which relates to the community's approval of the exercise of the right to buy. Section 51(2)(a) provides that at least half of the members of the community must have voted or, if half of the members have not voted, the proportion which voted is sufficient in the circumstances to justify the community body buying the land.
105. [Section 48](#) of the Act removes the reference to at least half of the members of the community voting and provides that the requirement in section 51(2)(a) of the 2003 Act is met if the proportion of the members of the community who voted is sufficient to justify the community body proceeding to buy the land. Section 51(3)(a) of the 2003 Act is repealed.

Appointment of person to conduct ballot on proposal to buy land

106. Sections 51 and 52 of the 2003 Act provide for a ballot to be carried out by the community body. Section 49 of the Act inserts a new section 51A into the 2003 Act which amends the procedure of the ballot and provides that it is to be carried out by an independent balloter. The responsibility for appointing a balloter and the expense of conducting the ballot lie with Ministers.
107. Subsections (2) to (6) of the new section 51A of the 2003 Act set out the procedure for the conduct of the ballot. So that the balloter has all the necessary information in order to undertake the ballot, Ministers are obliged under subsection (2) to provide the balloter with a copy of the application under section 37 of the 2003 Act and such other information as Ministers may prescribe in regulations. Subsection (3) provides that Ministers must do this within 28 days of the valuer being appointed under section 59 of the 2003 Act. Ministers must also provide the community body with the contact details of the balloter under subsection (4).
108. Subsections (5) and (6) of the new section 51A of the 2003 Act require that the community body must, within 7 days of receiving notification of the value of the land under section 60(2) of the 2003 Act, provide the balloter with wording for the proposition that the community body buy the land, together with other information as set out in regulations. The other information to be set out in regulations may relate to the community body, its proposals, the valuation and other matters. The form of the notification of the other information referred to may also be set out in regulations. Section 52(2) of the 2003 Act is repealed.

Consent under section 51 of the 2003 Act: prescribed information

109. **Section 50** of the Act inserts a new section 51B into the 2003 Act. This section sets out the information which Ministers must take account of when deciding whether to approve a community body's exercise of the right to buy.
110. The new section 51B of the 2003 Act confers a power on Ministers to specify the type of information which a community body must provide in regulations, including, in particular, information relating to the matters referred to in subsection (3) of section 51 of the 2003 Act. Subsection (3) of the new section 51B of the 2003 Act requires that the information must be provided in a form set out by Ministers in regulations. Ministers can also take account of any information which they consider to be relevant, regardless of whether it is of the type specified in regulations.
111. Subsection (5) of the new section 51B of the 2003 Act provides that Ministers have 7 days from receipt of information to request further information. Furthermore, in terms of subsection (6) of the new section 51B of the 2003 Act, the community body has 14 days from the receipt of such a request to provide Ministers with the information.

Representations etc. regarding circumstances affecting ballot results

112. **Section 51** of the Act inserts a new section 51C into the 2003 Act which sets out a process for where a community body considers that circumstances have affected the ballot result.
113. Subsection (1) of the new section 51C allows the community body, within 14 days of receiving notification of the result of the ballot, to make representations to Ministers on circumstances that the community body considers impacted the ballot result.
114. Subsection (2) requires the community body to provide Ministers with such evidence as is reasonably necessary to establish the existence and effect of the circumstances that affected the ballot result. A copy of the evidence and representations must be sent to the owner of the land by the community body. Subsection (3) allows Ministers to request further information if required and the community body must respond within 7 days under subsection (4).
115. Subsection (5) provides that the owner of the land may provide comments in connection with the representations and evidence provided by the community body within 7 days of receiving copies of such representations and evidence. The owner of the land must send copies of any comments to the community body (subsection (6)). The community body may give their views to Ministers on the owner of the land's comments (subsection (7)).
116. Subsection (8) provides that Ministers may request further information from the community body and, in terms of subsection (9), the community body must respond within 7 days.
117. Subsection (10) provides that Ministers must take account of any of the representations, evidence, information, comments or views which have been provided in this process when considering whether the ballot turnout requirement under section 51(2)(a) of the 2003 Act has been met.
118. Due to the administrative steps which have been provided for, section 51(2) of the Act amends section 51 of the 2003 Act to extend the length of the period in which Ministers must decide whether to consent to the exercise of the right to buy from 21 days to 35 days in cases where representations have been made under section 51C(1).

Ballot not conducted as prescribed

119. **Section 52** of the Act amends section 52 of the 2003 Act. Section 52(1) of the 2003 Act provides that a ballot should be conducted as prescribed in regulations. Furthermore, in terms of section 52(2), if a ballot is deemed to be flawed, the community's right to buy is extinguished. As noted, section 52(2) is repealed (see schedule 5 to the Act).
120. **Section 52** of the Act provides that section 52 of the 2003 Act is amended to include a new subsection (7). The new subsection (7) provides Ministers with the powers to make

regulations in connection with reviewing whether a ballot has been properly conducted and other matters relating to ballots not conducted as prescribed.

Period in which ballot results and valuations are to be notified

121. [Section 53](#) of the Act amends section 52(4) of the 2003 Act (which provides the timescale for the conduct of the ballot) and section 60 of the 2003 Act (which provides the timescale for notification of the valuation figure).
122. Section 52(4) of the 2003 Act provides that the ballot is to take place within 28 days of the notification of the value of the land under section 60(2) of the 2003 Act and the ballot date is determined by the date of that notification. Section 53(1) of the Act amends section 52(4) of the 2003 Act to provide that the ballot takes place within the 12 week period beginning on the date the valuer is appointed under section 59(1) of the 2003 Act. Alternatively, in cases where the valuation period has been extended on application by the valuer under section 60(3) of the 2003 Act and the date to which the valuation period has been extended to is after the 12-week period following the appointment of the valuer, the 12-week period begins on the day following the notification of the date under section 60(3C) of the 2003 Act. This means that the ballotter will in all cases have a minimum of 12 weeks to conduct the ballot and notify Ministers of the results.
123. Section 53(2) of the Act provides that section 60 of the 2003 Act is amended to insert new subsections (3A) to (3D). These provisions detail the procedure of when and how the valuer is able to seek an extension to the timings for reporting the value of the land to parties set out in section 60(2). The community body, the landowner and the ballotter must be informed of the existence of any extension, the length of any extension and the end period for the extension.

Exercise of right to buy: date of entry and payment of price

124. [Section 54](#) of the Act amends section 56 of the 2003 Act which sets out the time limits which apply to a community body in respect of payment of the price for the land.
125. Subsection (3) of section 56 of the 2003 Act provides that where the valuation figure is not being appealed under section 62 of the 2003 Act and where the time limit has not been extended by agreement, the price must be paid within 6 months of the date on which the community body confirmed its intention to proceed with the community right to buy in response to a notice under section 49(2)(a) of the 2003 Act or, in the case of a late application, within 6 months of the date of Ministers decision to register that interest in land. Section 54(a) of the Act extends this time period from 6 months to 8 months.
126. Section 54(b) of the Act provides for a new subsection (7) in section 56 of the 2003 Act. Where an extension to the 8-month period provided for in the amended section 56(3)(a) of the 2003 Act is required (such extension being permitted by section 56(3)(c) of the 2003 Act), the extension must be agreed, by both parties (landowner and community body), before the 8-month period ends. The community body must notify Ministers of any extension within 7 days of that agreement being made, including when that agreement was made and what that later extended date is. Evidence of such an agreement will be required by Ministers.

Notification of application under section 57 of the 2003 Act

127. [Section 55](#) of the Act inserts subsections 57(6) and 57(7) into the 2003 Act. Subsection 57(6) requires the landowner or community body who makes an application to the Lands Tribunal in connection with the failure or delay to transfer title to the community body to notify the Scottish Ministers in writing within 7 days of that application being made.

Valuation: views on representations and time limit

128. [Section 56](#) of the Act amends section 60 of the 2003 Act, subsection (1) of which requires the valuer to invite the landowner and the community body to comment on issues that may have an impact on the valuation.

129. **Section 56** of the Act inserts a new subsection (1A) into section 60 of the 2003 Act which imposes an obligation on the valuer to pass on any written representations about the value of the land, whether by the landowner or the community body, to the other party and invite counter-representations from that party. The valuer must consider any views made by both or either party while undertaking the valuation under section 59 of the 2003 Act.

Circumstances where expenses of valuation to be met by owner of the land

130. **Section 57** of the Act inserts a new section 60A into the 2003 Act. The new section 60A provides that, in certain circumstances, Ministers may require the landowner to pay the expenses of Ministers in connection with the valuation.
131. Subsection (1) of the new section 60A sets out the circumstances in which Ministers may exercise their discretion and require the landowner to pay the expenses incurred by Ministers in connection with the valuation.
132. Subsection (2) sets out that Ministers have a discretion to require the landowner to meet the costs associated with the valuation where the circumstances in subsection (1) are met. Where Ministers exercise their discretion, a demand for payment will be sent to the landowner.
133. Subsection (3) allows Ministers to request information from the landowner before deciding whether to exercise their discretion.
134. Subsection (4) provides that the landowner may appeal Ministers' decision to exercise their discretion to the sheriff within 21 days of the Ministers' decision. In terms of subsection (5), the sheriff's decision is final.
135. Subsection (6) provides that, where the landowner has not appealed the Ministers' decision, the landowner must pay the amount specified within 28 days of receiving the demand. Where the landowner appeals the Ministers' decision and the appeal is not successful, the landowner must pay the amount within 28 days of the determination of the appeal.

Creditors in standard security with right to sell land: appeals

136. **Section 58** of the Act amends section 61 of the 2003 Act. Section 61 provides a right of appeal to the sheriff for the landowner, the community body and other interested parties in respect of certain decisions by Ministers. In terms of section 48(4) of the 2003 Act, where there is a creditor with a right to sell the land and that creditor gives notice of a proposal to sell the land under section 48(1), the creditor would also have a right of appeal.
137. Section 58(a) of the Act expands the interested parties to include a "creditor in a standard security with a right to sell land" in all cases (including where the creditor has not given notice of a proposal to sell the land under section 48(1) of the 2003 Act). Section 58(b) and (c) of the Act amend the remaining sections of section 61 of the 2003 Act to take account of the creditor's right of appeal. The words "or" to "person" in section 61(3) of the 2003 Act are repealed by schedule 5 to the Act.

Appeals to Lands Tribunal as respects valuations of land

138. **Section 59** of the Act amends section 62 of the 2003 Act, and provides that the Lands Tribunal is required, within 8 weeks of the hearing of the appeal, to issue a written statement of reasons. Where the Land Tribunal considers that it is not reasonable to issue a written statement within 8 weeks, it must notify the parties to the appeal of the date by which it will issue its written statement.
139. Subsection 59(5) of the Act inserts subsections (8A), (8B) and (8C) into section 62 of the 2003 Act. Subsection (8A) requires the landowner or community body who appeals to the Lands Tribunal for Scotland in connection with the valuation of the land on an application to notify Ministers in writing within 7 days of the date on which the appeal is made to the Lands Tribunal. Subsection (8B) requires the Lands Tribunal to send

to Ministers a copy of the written statement of reasons issued following the appeal decision. Subsection (8C) states that failure to comply with these requirements has no effect on the community body's right to buy the land or the validity of the appeal.

Calculation of time periods in Part 2 of 2003 Act

140. [Section 60](#) of the Act inserts a new section 67A into the 2003 Act which provides that public or local holidays are not to be taken into account when calculating time periods in Part 2 of the 2003 Act.
141. New section 67A(2) of the 2003 Act provides a number of exceptions to the rule provided in new section 67A(1) – statutory periods for the date of entry, the valuation process and any appeals are not to be extended if a public or local holiday falls during the time when these steps are active.

Duty to provide information about community right to buy

142. [Section 61](#) of the Act inserts a new section 67B into the 2003 Act concerning the monitoring of community right to buy.
143. Inserted section 67B(1) and (2) of the 2003 Act provide that a community body, owner or former owner of land in respect of which an application to register an interest was made may be requested by Ministers to provide information, for the purposes of monitoring or evaluating any impacts that the right to buy land conferred by Part 2 of the 2003 Act has had or may have.
144. Inserted section 67B(3) of the 2003 Act sets out the type of information that may be requested by Ministers. It provides that it is any information which Ministers may reasonably require for the purpose of monitoring or evaluating the impact of the right to buy under Part 2 of the 2003 Act. Where a request has been made by Ministers, the recipient must comply to the extent that they are able to do so (inserted section 67B(4)).