

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: Allotments

Delegation of management of allotment sites

416. **Part 9** of the Act imposes certain management functions on local authorities in relation to allotment sites. Section 123 allows a local authority to delegate certain functions to a person who represents the interests of all or the majority of the tenants of the allotments on a particular site. Usually, this “person” will be an allotment association.
417. Only the functions set out in subsection (3) may be delegated by the local authority.
418. In order for functions to be delegated, a written application must be made by the person wishing to take over the functions of the local authority. The application must include the name and address of the applicant, in addition to such other information as the Scottish Ministers set out in regulations (subsection (4)).
419. Upon receipt of an application the local authority has 14 days in which to request from the applicant such further information as it requires in order to make a decision as to whether to agree or refuse the request. The applicant must provide this information within 14 days of it being requested (subsection (5)).
420. There are time limits by which the local authority must make and notify a decision on an application and these are set out in subsection (6). Where no further information has been requested from the applicant, the decision must be notified to the applicant within 28 days of receipt of the application. Where further information has been requested, this time limit is increased to 56 days.
421. If the request is refused, the local authority must send the applicant a decision notice which sets out the reasons for the refusal of the application (subsection (7)).
422. If the request is agreed, the local authority must decide which of its functions mentioned in subsection (3) it is delegating to the applicant and when the delegation will be reviewed (subsection (8)). Prior to the decision on which functions to delegate, the local authority is under an obligation to consult with the person who has made the request (subsection (9)).
423. In cases where the local authority considers that the person to whom they have delegated functions is not carrying out these functions satisfactorily, or where there is a disagreement between this person and the local authority, the local authority has the power to recall any of the functions it has delegated under this section (subsection (10)).
424. It is also set out in subsection (11) that where the local authority is leasing an allotment site from another person, any delegation of its functions must not contravene the head-lease.