

LAND REFORM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Right to Buy Land to Further Sustainable Development

Key terms

Section 48 – Eligible land: tenant’s interests

199. This section sets out the circumstances in which the right to buy may be exercised in relation to the interest of a tenant over tenanted land.
200. Subsection (1) states that the provisions about a tenant’s interest apply where a tenancy has been created over land at least part of which is eligible land provided that it is not a croft tenancy, tenancy of a dwelling-house or such other type of tenancy that the Scottish Ministers may set out in regulations.
201. Subsection (2) specifies definitions of “principal subjects” and “tenanted land”.
202. Subsection (3) specifies the situations in which a Part 5 community body may apply to buy a tenant’s interest in land. An application may be made if the Part 5 community body has made a simultaneous application to buy the land, or part of the land, to which the tenancy relates, it has made a prior application to buy the land on which Ministers have not yet made a decision or the application is made during the relevant period (and certain conditions are met).
203. Subsection (4) provides that the interest that the Part 5 community body may apply to buy under section 54 is the interest of the tenant over so much of the tenanted land as is comprised within the principal subjects.
204. Subsection (5) specifies the conditions under which the Part 5 community body can apply to purchase a tenant’s interest during the relevant period. The conditions are that the Part 5 community body, or third party purchaser who was nominated by a Part 5 community body has confirmed to Scottish Ministers its intention to proceed to buy the land, or part of it, to which the tenancy relates or has already bought and retained that land in accordance with Part 5.
205. Subsection (6) defines the “relevant period”. This is defined as beginning with the date on which Scottish Ministers approved the application for the Part 5 right to buy in relation to the land, or part of it, to which the tenancy relates. It ends either with (a) where the Part 5 community body, or third party purchaser as the case may be, does not proceed to exercise its right to buy, the date on which it withdraws its confirmation of intention to proceed, or the date of its failure to complete the purchase; or (b) where the Part 5 community body or third party purchaser has bought and retained the land, five years from the date where the Part 5 community body, or third party purchaser as the case may be, bought the land.
206. Subsection (7) specifies that reference to a tenant includes sub-tenant.