Community Empowerment (Scotland) Bill

2nd Marshalled List of Amendments for Stage 2
(Rural Affairs, Climate Change and Environment Committee)

The Bill will be considered in the following order—

Sections 27 to 49  Sections 95 to 98
Schedules 4 and 5  Sections 99 and 100
Long title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 48

Aileen McLeod
58 In section 48, page 29, line 13, at end insert—

< ( ) The land which may be bought by a Part 3A community body under this Part is eligible land.>

Michael Russell
Supported by: Sarah Boyack
34 In section 48, page 29, line 15, at end insert <, or

( ) otherwise in substantial need of sustainable development.>

Aileen McLeod
59 In section 48, page 29, line 16, after <eligible> insert <for the purposes of this Part>

Sarah Boyack
89 In section 48, page 29, line 17, at end insert—

< (2A) Ministers must, before making regulations under subsection (2) and within one year of this subsection coming into force, consult such persons as they consider appropriate about the content of those regulations.>

Aileen McLeod
60 In section 48, page 29, line 20, leave out from <unless> to end of line 21

Sarah Boyack
54 In section 48, page 29, leave out lines 27 to 29
In section 48, page 29, line 32, leave out <to be treated as being an individual’s> and insert <, or are to be treated as, a>

In section 48, page 30, line 2, leave out <below,> and insert —

(a) a body falling within subsection (1A), (1B) or (1C), or
(b) a body of such other description as may be prescribed which complies with prescribed requirements.

(1A) A body falls within this subsection if it is

In section 48, page 30, line 8, leave out <20> and insert <10>

In section 48, page 30, line 9, leave out <the majority of the members of the company is to consist of> and insert <at least three quarters of the members of the company are>

In section 48, page 30, line 23, at end insert —

(a) a definition of the community to which the SCIO relates,
(b) provision enabling the SCIO to exercise the right to buy land under this Part,
(c) provision that the SCIO must have not fewer than 10 members,
(d) provision that at least three quarters of the members of the SCIO are members of the community,
(e) provision under which the members of the SCIO who consist of members of the community have control of the SCIO,
(f) provision ensuring proper arrangements for the financial management of the SCIO,
(g) provision that, on the request of any person for a copy of the minutes of a meeting of the SCIO, the SCIO must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
(h) provision that, where a request of the type mentioned in paragraph (g) is made, the SCIO—
   (i) may withhold information contained in the minutes, and
   (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and
(i) provision that any surplus funds or assets of the SCIO are to be applied for the benefit of the community.

(1C) A body falls within this subsection if it is a community benefit society the registered rules of which include the following—

(a) a definition of the community to which the society relates,

(b) provision enabling the society to exercise the right to buy land under this Part,

(c) provision that the society must have not fewer than 10 members,

(d) provision that at least three quarters of the members of the society are members of the community,

(e) provision under which the members of the society who consist of members of the community have control of the society,

(f) provision ensuring proper arrangements for the financial management of the society,

(g) provision that, on the request of any person for a copy of the minutes of a meeting of the society, the society must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,

(h) provision that, where a request of the type mentioned in paragraph (g) is made, the society—

(i) may withhold information contained in the minutes, and

(ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and

(i) provision that any surplus funds or assets of the society are to be applied for the benefit of the community.

**Aileen McLeod**

66 In section 48, page 30, line 25, leave out <(1)(c)> and insert <(1A)(c), (1B)(c) or (1C)(c)>

**Aileen McLeod**

67 In section 48, page 30, line 27, leave out <(1)> and insert <(1A)>

**Aileen McLeod**

68 In section 48, page 30, line 31, at end insert—

<(4A) Ministers may by regulations from time to time amend subsections (1A), (1B) and (1C).>

(4B) If provision is made under subsection (1)(b), Ministers may by regulations make such amendment of section 97E(1) in consequence of that provision as they consider necessary or expedient.

**Aileen McLeod**

69 In section 48, page 30, line 33, leave out <(1)(a)> and insert <(1A)(a), (1B)(a) and (1C)(a)>
In section 48, page 31, line 8, at end insert—

<“community benefit society” means a registered society (within the meaning of section 1 of the Co-operative and Community Benefit Societies Act 2014) registered as a community benefit society under section 2 of that Act,

“registered rules” has the meaning given by section 149 of that Act (as that meaning applies in relation to community benefit societies),

“Scottish charitable incorporated organisation” has the meaning given by section 49 of the Charities and Trustee Investment (Scotland) Act 2005.>

In section 48, page 31, line 12, leave out <or articles of association> and insert <, articles of association, constitution or registered rules (as defined in section 97D(8))>

In section 48, page 31, line 16, after <community> insert <body>

In section 48, page 31, line 30, leave out <Abandoned or Neglected> and insert <Eligible>

In section 48, page 33, line 19, leave out <wholly or mainly abandoned or neglected> and insert <eligible land for the purposes of this Part>

In section 48, page 33, line 23, at end insert <known to the Part 3A community body>

In section 48, page 33, leave out from beginning to end of line 27

In section 48, page 33, leave out lines 29 to 32

In section 48, page 35, line 4, leave out <wholly or mainly neglected or abandoned> and insert <eligible land for the purposes of this Part>
Dave Thompson
Supported by: Sarah Boyack

45 In section 48, page 36, leave out lines 15 to 17 and insert—

\[
(\quad) \text{that the achievement of sustainable development in relation to the land}
\]
\[
\text{would be unlikely to be furthered by the owner of the land continuing to}
\]
\[
\text{be its owner.}
\]

Sarah Boyack

90* In section 48, page 36, line 18, at end insert \textless or, \textgreater

\[
(\quad) \text{the Part 3A community body has exercised all reasonable diligence}
\]
\[
in seeking to identify that person but is not able to accurately}
\]
\[
\text{identify the owner.}
\]

Aileen McLeod

76 In section 48, page 36, line 19, after \textless it \textgreater insert \textless with a right to sell the land or any part of it\textgreater

Aileen McLeod

77 In section 48, page 37, line 40, at beginning insert \textless Subject to subsection (6A),\textgreater

Aileen McLeod

78 In section 48, page 37, line 41, at end insert—

\[
(6A) \text{Ministers may by regulations make provision for or in connection with}
\]
\[
enabling a Part 3A community body, in such circumstances as may be}
\]
\[
\text{specified in the regulations, to apply to them to seek reimbursement of the}
\]
\[
\text{expense of conducting a ballot under this section.}
\]

(6B) Regulations under subsection (6A) may in particular make provision in relation to—

(a) the circumstances in which a Part 3A community body may make an

(b) the method to be applied by Ministers in calculating the expense of

(c) the criteria to be applied by Ministers in deciding whether to make a

(d) the procedure to be followed in connection with the making of—

(i) an application to Ministers,

(ii) an appeal against a decision made by Ministers in respect of an

(e) persons who may consider such an appeal,

(f) the powers of such persons.
Aileen McLeod
79 In section 48, page 39, line 3, leave out <the prescribed period, prescribed persons> and insert <such period as may be specified in the regulations, persons so specified>

Aileen McLeod
80 In section 48, page 39, line 7, leave out <prescribing> and insert <specifying>

Aileen McLeod
81 In section 48, page 39, line 9, leave out from first <prescribed> to end of line 11 and insert <such persons as may be specified in the regulations, in such circumstances as may be so specified, to register in the Register of Community Rights in Abandoned or Neglected Land notices as may be so specified.>

Aileen McLeod
82 In section 48, page 39, leave out lines 12 and 13 and insert—

<(c) requiring, in such circumstances as may be specified in the regulations, such information as may be so specified to be incorporated into deeds relating to the land as may be so specified.>

Aileen McLeod
83 In section 48, page 39, line 15, leave out <the prescribed period> and insert <such period as may be specified in the regulations>

Aileen McLeod
84 In section 48, page 39, line 17, leave out <prescribed> and insert <so specified>

Aileen McLeod
85 In section 48, page 39, line 21, leave out <prescribed circumstances> and insert <such circumstances as may be specified in the regulations>

Sarah Boyack
91 In section 48, page 41, line 43, at end insert—

<(1A) Ministers must, within 7 days of the appointment of a valuer under subsection (1), give written notice of the appointment to—

(a) the owner of the land,
(b) the Part 3A community body.

(1B) A written notice under subsection (1A) must invite written representations on the appointment to be made to Ministers within 7 days of the day on which the owner of the land or, as the case may be, the Part 3A community body, received the notice.

(1C) No sooner than 3 days after the expiry of the period of 7 days mentioned in subsection (1B) and after having regard to any representations received by virtue of that subsection, Ministers must—>
(a) appoint a new valuer, being a person who appears to Ministers to be suitably qualified, independent and to have knowledge and experience of valuing land of a kind which is similar to the land being bought, to replace the valuer appointed under subsection (1) and assess the value of the land to which the application mentioned in that subsection relates, or

(b) confirm the appointment of the valuer appointed under subsection (1) and provide a written explanation of this decision to any person who submitted written representations under subsection (1B) objecting to the appointment of the valuer.

Aileen McLeod

86 In section 48, page 43, line 1, at end insert—

<(8A) Where written representations under subsection (8) are received—

(a) from the owner of the land, the valuer must invite the Part 3A community body which is exercising its right to buy the land to send its views on the representations in writing,

(b) from the Part 3A community body which is exercising its right to buy the land, the valuer must invite the owner of the land to send the owner’s views on the representations in writing.

(8B) In carrying out a valuation under this section, the valuer must consider any views sent under subsection (8A).>

Aileen McLeod

87 In section 48, page 46, line 9, at end insert <and must issue a written statement of these reasons—

(a) within 8 weeks of the hearing of the appeal, or

(b) where subsection (5A) applies, by such later date referred to in paragraph (b)(ii) of that subsection.

(5A) This subsection applies where—

(a) the Lands Tribunal considers that it is not reasonable to issue a written statement mentioned in subsection (5) by the time limit specified in paragraph (a) of that subsection, and

(b) before the expiry of that time limit, the Lands Tribunal has notified the parties to the appeal—

(i) that the Lands Tribunal is unable to issue a written statement by that time limit, and

(ii) of the date by which the Lands Tribunal will issue such a written statement.

(5B) The validity of anything done under this Part is not affected by any failure of the Lands Tribunal—

(a) to comply with the time limit specified in paragraph (a) of subsection (5) above, or

(b) to issue a written statement by the date referred to in paragraph (b) of that subsection.>
In section 48, page 47, line 4, at end insert—

Financial support for Part 3A community bodies

(1) Ministers must adjust the application criteria that apply in relation to any fund maintained by them for the purpose of providing financial support to community bodies in respect of the purchase of land under Part 2 of this Act so as to achieve the effect mentioned in subsection (2).

(2) The effect is that Part 3A community bodies have, in respect of the purchase of abandoned and neglected land under Part 3A of this Act, the same access to any such fund as community bodies have in respect of the purchase of land under Part 2 of this Act.

Persistently abandoned and neglected land: compulsory sale order

After section 97Z of the 2003 Act (inserted by section 48), insert—

“PART 3B

PERSISTENTLY ABANDONED AND NEGLECTED LAND: COMPULSORY SALE ORDER

PART 3B: Interpretation

In this Part—

“community body” has the meaning given in section 97D,

“land” has the meaning given in section 97B.

Register of persistently abandoned and neglected land

(1) Each local authority must establish and maintain a register of land in its area which in the opinion of the authority is persistently abandoned or neglected (an “abandoned land register”).

(2) An abandoned land register must include—

(a) a description of the location and boundaries of land included in the register,

(b) information on—

(i) any permission, the period for undertaking development under which has not expired, granted in respect of the land or any part of it under the Town and Country Planning (Scotland) Act 1997,

(ii) any plan under that Act affecting the land or any part of it, and

(c) such other information as—

(i) the local authority sees fit,
(ii) may be prescribed.

(3) The local authority must publish its abandoned land register in such a way as it may determine.

(4) Land may be included on the abandoned land register—
   (a) at the initiative of the local authority, or
   (b) on an application by a community body.

(5) Land is eligible to be included in an abandoned land register if in the opinion of the local authority it—
   (a) has been abandoned or neglected for a continuous period of at least 3 years,
   (b) is not land which falls within section 97C(3),
   (c) may be in the public interest for the land to be subject to a compulsory sale order under section 97ZD.

(6) Before including land on its abandoned land register, a local authority must—
   (a) send notice in writing that it is considering whether to do so to—
      (i) the owner of the land, and
      (ii) any creditor in a standard security over the land or any part of it, and
   (b) invite those persons to make representations in respect of whether the land should be included on the register.

(7) Subsection (6)(a) does not apply if the local authority is unable to trace the person.

(8) In determining whether to include land on its abandoned land register, the local authority must have regard to—
   (a) any representations made under subsection (6)(b),
   (b) where an application has been made under subsection (4)(b), any information provided with the application.

(9) The local authority must make arrangements for those persons specified in subsection (11) to be notified of its determination under subsection (8).

(10) The local authority must make arrangements for those persons specified in subsection (11) to apply for a review of a determination by the authority as to whether land is to be included on its abandoned land register.

(11) The persons mentioned in subsections (9) and (10) are—
   (a) a person mentioned in subsection (6)(a),
   (b) a community body.

(12) The local authority must not include land on its abandoned land register until—
   (a) the period for making an application for a review under subsection (10) has expired without an application having been made, or
   (b) where an application for a review has been made, that review has been determined.
(13) A local authority must—

(a) make arrangements to enable members of the public to inspect, free of charge, its abandoned land register at reasonable times and at such places as the authority may determine, and

(b) make its abandoned land register available, free of charge, on a website, or by other electronic means, to members of the public.

(14) The Scottish Ministers may by regulations make such further provision in connection with abandoned land registers as they think fit.

(15) Regulations under subsection (14)—

(a) without prejudice to the generality of that subsection, may in particular make provision about—

(i) arrangements that are to apply where land falls within the area of more than one local authority,

(ii) fees that may be charged by local authorities in respect of abandoned land registers,

(b) are subject to the affirmative procedure.

97ZC  Guidance about abandoned land registers

(1) In carrying out any of the duties imposed on it by section 97ZB, a local authority must have regard to any guidance issued by the Scottish Ministers in relation to the duties.

(2) Before issuing any such guidance, the Scottish Ministers must consult—

(a) local authorities,

(b) community councils, and

(c) such other persons as the Scottish Ministers think fit.

97ZD  Compulsory sale orders

(1) Where land has been included on an abandoned land register for a continuous period of at least 3 years, the local authority must, if requested to do so by a community body, by notice in writing (a “compulsory sale order”) require the owner of the land to offer the land for sale.

(2) Where required to offer the land for sale under subsection (1), the owner of the land must do so at a public auction within the period of 6 months beginning with the date of issue of the notice under subsection (1).

(3) Where either subsection (4) or (5) applies, the local authority must offer the land for sale at a public auction as soon as practicable after the end of the period described in subsection (2).

(4) This subsection applies if the owner of the land has not offered the land for sale in accordance with subsection (2).

(5) This subsection applies if—

(a) the owner of the land has offered the land for sale in accordance with subsection (2),
(b) the land was—
   (i) not sold at the public auction, or
   (ii) sold on terms that in the opinion of the local authority are not in the public interest, and

(c) in the opinion of the local authority the arrangements made for the auction were unsatisfactory in a way that had a material effect on the land not being sold or the terms on which the land was sold.

(6) Where subsection (7) applies, no further application for a compulsory sale order may be made until the expiry of the period of 3 years beginning with the date of the public auction.

(7) This subsection applies if—
   (a) the owner of the land has offered the land for sale in accordance with subsection (2), and
   (b) the land was not sold at the public auction.

97ZE Power of local authority where land not put to use

(1) Subsection (2) applies if—
   (a) land has been sold in accordance with section 97ZD, and
   (b) in the opinion of the local authority no satisfactory steps towards appropriate development or use of the land have commenced within the period of 3 years beginning with the date the land was sold.

(2) The local authority may acquire the land compulsorily.

97ZF Regulations on compulsory sale orders

(1) The Scottish Ministers may by regulations make such further provision as they see fit in connection with—
   (a) compulsory sale orders under section 97ZD,
   (b) the exercise by local authorities of the power in section 97ZE.

(2) Without prejudice to the generality of subsection (1), regulations may in particular make provision about—
   (a) arrangements for payment to the owner of the consideration paid for land sold under section 97ZD(3),
   (b) the circumstances in which and the extent to which local authorities may recover from such sums any costs reasonably incurred by them in carrying out their functions under section 97ZD.

(3) Regulations under this section are subject to the affirmative procedure.”.

Sarah Boyack

94 After section 48, insert—
Community right to register an interest in land

After section 97Z of the 2003 Act (as inserted by section 48), insert—

‘PART 3C

COMMUNITY RIGHT TO REGISTER AN INTEREST IN LAND

97ZG Community right to register an interest in land

(1) A community body may make an application to Ministers for its interest in registerable land to be registered.

(2) An application under subsection (1) must be made in the prescribed form and accompanied by information of the prescribed kind, including information (provided, where appropriate, by or by reference to maps or drawings) about the location and boundaries of the land.

(3) Where Ministers decide that it is in the public interest for the interest of a community body to be entered in the Register of Community Interests in Land they shall direct the Keeper to so enter the interest with effect from the date on which Ministers made the decision.

(4) Where an interest has been registered in accordance with subsection (4), the Keeper must notify—

(a) the owner of the land; and

(b) any creditor in a standard security over an interest in the land.

(5) Where a person mentioned in subsection (4) proposes to—

(a) transfer the land (or any land of which that land forms part);

(b) take any action with a view to the transfer of that land (or any land of which that land forms part); or

(c) undertake any development of a prescribed kind on the land (or any land of which that land forms part),

that person must notify the community body of the proposal.

(6) In this Part—

“community body” has the meaning given by section 34,

“the Keeper” has the meaning given by section 36(9),

“registerable land” has the meaning given by section 33,

“Register of Community Interests in Land” means the register set up under section 36.”.

Sarah Boyack

95 After section 48, insert—

<Duty of local authorities to support community bodies, crofting community bodies and Part 3A community bodies

Before section 98 of the 2003 Act, insert—
“97ZH Duty of local authorities to support community bodies, crofting community bodies and Part 3A community bodies

(1) It is the duty of each local authority to provide support—
   (a) to bodies or groups of persons within the authority’s area seeking to constitute themselves as a community body, crofting community body or a Part 3A community body with a view to registering an interest in land under, and exercising a right to buy land conferred by, Part 2, 3 or, as the case may be, 3A of this Act in so constituting themselves,
   (b) to community bodies, crofting community bodies and Part 3A community bodies within the authority’s area seeking—
      (i) to register an interest in land under, or
      (ii) to exercise a right to buy land conferred by,
Part 2, 3 or, as the case may be 3A of this Act in so doing.

(2) Ministers must issue guidance to local authorities about the carrying out of the function conferred on local authorities by subsection (1); and local authorities must comply with such guidance.

(3) Ministers must, before issuing guidance under subsection (2) and within one year of this subsection coming into force, consult such persons as they consider appropriate about the content of that guidance.”.

After section 49

Sarah Boyack

96 After section 49, insert—

<Part

Review of compulsory purchase legislation and guidance

(1) The Scottish Ministers must, for the purpose of considering how communities could be further empowered in relation to the better use or acquisition of land which is of significance to them, conduct a review of legislation which allows the Scottish Ministers, a local authority or any other public authority to acquire land compulsorily and any guidance associated with such legislation.

(2) In conducting such a review, the Scottish Ministers are in particular to consider—
   (a) the extent to which powers to acquire land compulsorily contribute, or could contribute, to achieving sustainable development,
   (b) whether communities are sufficiently involved in compulsory acquisition processes,
   (c) whether a right for community bodies to request the initiation of a compulsory acquisition process should be created and, if so, the circumstances in which such a right should apply,
   (d) whether compulsory acquisition processes could be made more efficient and effective (in particular, for communities involved to any extent in such processes).

(3) The Scottish Ministers must publish a report of the review under subsection (1) no later than two years after this section comes into force.>
Schedule 4

Aileen McLeod

38 In schedule 4, page 80, line 10, leave out <in accordance with this paragraph> and insert <as follows>

Aileen McLeod

39 In schedule 4, page 80, line 11, at end insert—
<( ) in subsection (4)(a), after “sought” insert “to be registered”>

Aileen McLeod

40 In schedule 4, page 81, line 16, leave out <“or 94” substitute “> and insert <“78 or 94” substitute “72(4), 78,>.

Aileen McLeod

41 In schedule 4, page 81, line 17, leave out <or (4A)> and insert <, (4A) or (4B), 38(2B), 71(A1)(b), (4A) or (4B),>

Dave Thompson
Supported by: Sarah Boyack

55 In schedule 4, page 81, line 17, after <(4A),> insert <44(2D),>

Aileen McLeod

88 In schedule 4, page 81, line 18, after <(4),> insert <97D(4A) or (4B),>

Michael Russell
Supported by: Sarah Boyack

46 In schedule 4, page 81, line 18, at end insert—
<( ) after subsection (5) insert—

“( ) In making any decision under Part 2, 3 or 3A, Ministers are to have regards to the International Covenant on Economic, Social and Cultural Rights (adopted and opened to signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966).”,>

Graeme Dey
Supported by: Sarah Boyack

47 In schedule 4, page 81, line 18, at end insert—
<( ) after subsection (5) insert—

“( ) Where a community body is seeking to acquire land under Part 2, 3 or 3A, Ministers may, on being requested to do so by the owner of the land or by the community body, take such steps as Ministers consider appropriate for the purpose of arranging, or facilitating the arrangement of, mediation with regard to the proposed acquisition.”,>
Claudia Beamish

56 In schedule 4, page 81, line 19, at end insert—

<( ) after subsection (8), insert—

“( ) A community body which has made a written application under Part 2, 3 or 3A may, at any time before the application is disposed of, correct in writing a clerical or other non-material error in that application.”.>

Claudia Beamish

57 In schedule 4, page 81, line 19, at end insert—

<( ) After section 98 insert—

“98A Special application of certain provisions of Parts 2 and 3A

(1) This section applies to any provision of Part 2 or 3A of this Act which includes the words “before the end of the period of 7 days”, “within 7 days” or “within the period of 7 days”.

(2) Ministers may determine, where they are satisfied that there is a good and sufficient reason for doing so, that in the application of the provision to a particular case, the 7 days in question are to be extended to 14 days.

(3) Where Ministers make a determination under subsection (2), they must issue their determination in writing accompanied by a statement of their reasons for being satisfied that there are good and sufficient reasons to extend the period.”.>

Schedule 5

Aileen McLeod

42 In schedule 5, page 82, line 7, leave out <, (6) and (8)> and insert <and (6)>

Section 99

Sarah Boyack

97 In section 99, page 76, line 36, at end insert—

<( ) Section 48 comes into force on the day after Royal Assent, but only to the extent required to enable the consultation referred to in section 97C(2A) of the Land Reform (Scotland) Act 2003 to take place.>

Sarah Boyack

98 In section 99, page 76, line 36, at end insert—

<( ) Section (Duty of local authorities to support community bodies, crofting community bodies and Part 3A community bodies) comes into force on the day after Royal Assent, but only to the extent required to enable the consultation referred to in section 97ZH(3) of the Land Reform (Scotland) Act 2003 to take place.>
Long title

Aileen McLeod

43 In the long title, page 1, line 3, leave out <Part 2> and insert <Parts 2 and 3>