Community Empowerment (Scotland) Bill

3rd Marshalled List of Amendments for Stage 2
(Local Government and Regeneration Committee)

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

After section 62

Marco Biagi

1084 After section 62, insert—

<PART

DELEGATION OF FORESTRY COMMISSIONERS’ FUNCTIONS

Meaning of “community body” in Forestry Act 1967

(1) Section 7C of the Forestry Act 1967 (delegation of functions under section 7B: community bodies) is amended as follows.

(2) In subsection (1)—

(a) for the words from “company”, where it first occurs, to “include” substitute “body corporate having a written constitution that includes”,

(b) for the word “company”, wherever it appears in paragraphs (a) to (e), substitute “body”,

(c) after paragraph (d) insert—

“(da) provision that membership of the body is open to any member of the community,

(db) a statement of the body’s aims and purposes, including the promotion of a benefit for the community,”, and

(d) in paragraph (e), for “and the auditing of its accounts” substitute “, and

(f) provision that any surplus funds or assets of the body are to be applied for the benefit of the community.”.

(3) In subsection (2), for “(d)” substitute “(db)”.

(4) Subsections (4) to (6) are repealed.>
<PART
SUPPORTERS’ TRUST’S RIGHT TO BUY SCOTTISH PROFESSIONAL FOOTBALL LEAGUE CLUBS

Key definitions

Meaning of “supporters’ trust”
In this Part “supporters’ trust” means a body—

(a) which is a community benefit society registered under the Co-operative and Community Benefit Societies Act 2014 (referred to in this Part as the “2014 Act”), that is—

(i) a society registered under the 2014 Act on or after 1 August 2014, or

(ii) (by virtue of section 150(1) of the 2014 Act) a society that immediately before that date was registered or treated as registered under the Industrial and Provident Societies Act 1965.

(b) related to one Scottish Professional Football League club (referred to in this Part as “football club”).>

Meaning of “Scottish Professional Football League club”
(1) In this Part, “Scottish Professional Football League club” means a football club which is for the time being a member of the Scottish Professional Football League or any successor body recognised as the senior competitive league by the Scottish Football Association.

(2) The Scottish Ministers may by regulations modify the meaning of football club in subsection (1).

(3) Before making regulations under subsection (2), the Scottish Ministers must consult such persons as they consider appropriate.

Supporters trust register
(1) The Keeper of the Registers of Scotland must establish and maintain a public register of supporters’ trusts who have registered an interest in a football club in accordance with section (supporters’ trust registration of interest in buying a football club).

(2) The register established under subsection (1) is to be known as the Supporters’ Trust Register.

(3) In this Part—

the “Keeper” means the Keeper of the Registers of Scotland,
the “register” means the Supporters’ Trust Register, and
“registered” means registered in the register; and cognate expressions are to be
construed accordingly.

Alison Johnstone
Supported by: Ken Macintosh

After section 62, insert—

<Meaning of “ownership”

(1) In this Part “ownership” in relation to a football club means having a controlling interest
in the football club whether that controlling interest is held by—

(a) an individual,
(b) a community benefit society within the meaning of the 2014 Act,
(c) a registered company,
(d) a group of registered companies, or
(e) such other body as the Scottish Ministers may prescribe.

(2) In this Part—

“controlling interest” means, in relation to the football club, shares carrying in the
aggregate more than half of the voting rights exercisable at general meetings of
the club,

“registered company” means a company for the purposes of the Companies Act
2006.

Alison Johnstone
Supported by: Ken Macintosh

After section 62, insert—

<Registration of interests

Supporters’ trust registration of interest in buying a football club

(1) A supporters’ trust interest in buying a football club may be registered only upon an
application to the Scottish Ministers in the prescribed form and accompanied by
information of the prescribed kind.

(2) An application by a supporters’ trust may only be made in relation to one football club.

(3) More than one supporters’ trust may be registered in respect of the same football club.

(4) On receipt of an application, the Scottish Ministers must—

(a) send a copy of the application and the accompanying information to the owner or
operator of the football;

(b) invite the owner or operator of the football club to send them, so as to be received
not later than 21 days after the sending of the invitation, views in writing on the
application;

(c) send a copy of the invitation under paragraph (b) to the supporters’ trust; and
(d) by notice sent to the owner or operator of the football club, prohibit the owner or operator from taking, during the period beginning with the date on which the owner or operator receives the notice and ending on the date on which the Scottish Ministers determine whether an interest is to be registered, any action which, if the interest had been registered, would be prohibited under section *(effect of registration)*.

(5) The Scottish Ministers may not decide that a supporters’ trust interest in a football club is to be entered into the register unless they are satisfied that—

(a) the application pertains to a football club which is for the time being a member of the Scottish Professional Football League,

(b) a significant number of the members of the supporters’ trust have a substantial connection with the club,

(c) membership of the supporters’ trust is open to all fans of the relevant football club at an affordable rate,

(d) there is within the supporters’ trust a level of support sufficient to justify such registration, and

(e) that it is in the public interest that the supporters’ trust interest be so registered.

(6) Where the Scottish Ministers decide that a supporters’ trust interest is to be entered in the Register they must direct the Keeper to so enter the interest with effect from the date on which the Scottish Ministers made the decision.

Alison Johnstone
Supported by: Ken Macintosh

1236 After section 62, insert—

**<Effect of registration**

(1) For so long as a supporters’ trust’s interest in a football club is registered the owner or operator of the football club is prohibited from—

(a) transferring ownership of that football club,

(b) taking any action with a view to the transfer of ownership of that football club, except in accordance with this Part of this Act.

(2) A transfer of ownership in breach of subsection (1)(a) is of no effect.

(3) Action is taken with a view to a transfer of ownership of a football club for the purposes of this section when—

(a) the football club is, by or with the authority of the owner or operator of the football club advertised or otherwise exposed for sale,

(b) the owner or operator of the football club, or a person acting on behalf of the owner or operator, enters into negotiations with another person with a view to the transfer of ownership of the football club, or

(c) the owner or operator of the football club, or a person acting on behalf of the owner or operator, proceeds further with any proposed transfer of the ownership of the football club which was initiated prior to the date on which the interest was registered.

(4) Where—
(a) a supporters’ trust’s interest in a football club is registered, and
(b) an owner or operator of that football club sells shares in the club in such a way as
to transfer the controlling interest in the club without exposing the club for sale,
the owner or operator of the club is not acting in accordance with this section and
those shares must be offered for re-sale to the supporters’ trust or trusts with a
registered interest in the club.

Alison Johnstone
Supported by: Ken Macintosh

1237 After section 62, insert—

<Procedure for late applications

(1) This section applies in relation to an application to register a supporters’ trust interest in a football club—

(a) where the application is received by the Scottish Ministers—

(i) after the date on which the owner or operator of the football club has taken
action which, if a supporters’ trust interest had been registered, would be
prohibited under section (effect of registration), and

(ii) before the date on which—

(A) transfer of ownership of the football club is concluded, or

(B) an option to buy the football club is conferred, in pursuance of that
action, or

(b) where another supporters’ trust has registered an interest in the football club,
where the application is received by the Scottish Ministers—

(i) after the date on which the owner or operator of the football club has, under
section (supporters’ trust right to buy), notified that supporters’ trust that a
transfer is proposed, and

(ii) before the Scottish Ministers have consented, under section (exercise of
right to buy: approval of supporters’ trust and consent of the Scottish
Ministers), to a transfer to that supporters’ trust.

(2) Where this section applies in relation to an application the owner or operator of the
football club must, on receipt of an invitation under section (supporters’ trust
registration of interest in buying a football club), inform the Scottish Ministers that this
section applies.

(3) Where this section applies in relation to an application, the Scottish Ministers may not
decide that a supporters’ trust interest is to be entered in the Register unless they are
(additionally to the matters as to which they are to be satisfied under section
(supporters’ trust registration of interest in buying a football club)) satisfied—

(a) that there were good reasons why the supporters’ trust did not secure the receipt of
an application before the owner or operator of the football club took the action, or
gave the notice, such as is mentioned in subsection (1),
(b) that the level of support within the supporters’ trust for such registration is significantly greater than that which the Scottish Ministers would, have considered sufficient for the purposes of section (supporters’ trust registration of interest in buying a football club)(5)(d) had the application been received before that action was taken or, as the case may be, the notice was given, and

(c) that the factors bearing on whether it is or is not in the public interest that the supporters’ trust be registered are strongly indicative that it is.

(4) Where a supporters’ trust interest in a football club is registered in pursuance of an application in relation to which this section applies—

(a) the owner or operator of the football club is, for the purposes of this Part of this Act (other than section (assessment of value of football club)(4)), deemed to have, on the date on which that interest is so registered, given notice under section (procedure for buying) that a transfer is proposed,

(b) section (procedure for buying) does not apply in so far as it relates to that interest, and

(c) for the purposes of sections (procedure for buying) and (assessment of value of football club), the supporters’ trust is deemed to have sent the confirmation which the Scottish Ministers would, had section (procedure after activation of right to buy) applied, have required to seek under subsection (2)(a) of that section on the date on which the interest is registered.

(5) Where, but for the provision made by subsection (1)(a)(ii), this section would apply in relation to an application to register a supporters’ trust interest in a football club the Scottish Ministers must decline to consider the application.

Alison Johnstone
Supported by: Ken Macintosh

1238 After section 62, insert—

<Activation of right to buy

Activation of supporters’ trust right to buy

(1) The right to buy a football club in which a supporters’ trust interest has been registered arises and may be exercised when the owner or operator of that club is deemed to have given notice under subsection (2)—

(a) of an intention to transfer ownership of the club, or

(b) that the club has entered into formal insolvency.

(2) Where subsection (1)(a) or (b) apply the owner or operator of the football club in respect of which the supporters trust interest is registered shall notify that fact to—

(a) the supporters’ trust, or trusts, in respect of which the interest is registered, and

(b) the Scottish Ministers.

(3) Notification under subsection (2) must be given in such form and otherwise in accordance with such provisions as are prescribed.

Alison Johnstone
Supported by: Ken Macintosh

1239 After section 62, insert—
Supporters’ trust right to buy

The right to buy a football club in which a supporters’ trust interest has been registered may be exercised at any time after that interest has been entered into the register by the Keeper.

Alison Johnstone
Supported by: Ken Macintosh

1240 After section 62, insert—

<Procedure after activation of right to buy

(1) On receipt of a notification under section (activation of supporters’ trust right to buy), the Scottish Ministers must direct the Keeper to enter particulars of the notification in the Register.

(2) Not later than 7 days after such receipt of the notification the Scottish Ministers must—
   (a) send to the supporters’ trust or trusts which has registered the interest in the football club a notice in the prescribed form seeking its confirmation in writing that it will exercise its right to buy the football club, and
   (b) send to the owner or operator of the football club a notice in the prescribed form narrating their compliance with paragraph (a).

(3) A notice under subsection (2)(a) must specify the date referred to in and narrate the effect of subsection (4) below.

(4) If, by the date specified in the notice, being a date not later than 30 days after it was sent, the supporters’ trust has not caused its confirmation to be received by the Scottish Ministers, Ministers must be deemed to have received written notice from the supporters’ trust under subsection (1) of section (declaration or extinction of right to buy) that it will not exercise its right to buy the football club and subsections (2) to (4) of that section must apply accordingly.

(5) The Scottish Ministers must send a copy of—
   (a) the notice sent under subsection (2)(a), and
   (b) any confirmation received by them in pursuance of this section, to the owner of the club and to the Keeper.

(6) Any failure to comply with the time limit specified in subsection (2) above does not affect the validity of anything done under this section.>

Alison Johnstone
Supported by: Ken Macintosh

1241 After section 62, insert—

<Exercise of right to buy: approval of supporters’ trust and consent of the Scottish Ministers

(1) A supporters’ trust must not proceed to buy the football club under this Part of this Act without—
   (a) the approval of the supporters’ trust, and
   (b) the consent of the Scottish Ministers.
(2) The supporters’ trust are to be taken as having given their approval for the purposes of subsections (1) and (3) if Scottish Ministers are satisfied—

(a) that—

(i) at least half of the members of the supporters’ trust, as defined for the purposes of section (meaning of “supporters’ trust”), have voted in a ballot conducted by the supporters’ trust on the question whether the supporters’ trust should buy the football club, or

(ii) where less than half of the members of the supporters trust have so voted, the proportion which did vote is, in the circumstances, sufficient to justify the supporters’ trust proceeding to buy the football club,

(b) that the majority of those voting have voted in favour of the proposition that the supporters’ trust buy the football club, and

(c) that this vote should have taken place within five months prior to the issue of the notice within section (activation of supporters’ trust right to buy) or during the 30 day period specified within section (procedure after activation of right to buy).

(3) The Scottish Ministers may not consent for the purposes of subsection (1) unless the supporters’ trust have given their approval and the Scottish Ministers are satisfied—

(a) that the football club is a club within the meaning of section (meaning of “Scottish Professional Football League club”),

(b) that the supporters’ trust continues to comply with the provisions of section (meaning of supporters’ trust),

(c) that the proposed purchase of the football club is in the public interest, and

(d) that there has not, since the date on which they decided the supporters’ trust’s interest should be registered, been a change in any matters to the extent that, if the application to register the supporters’ trust interest were made afresh, they would decide that the interest is not to be entered in the Register.

(4) A supporters’ trust may require the Scottish Ministers to treat as confidential any information or document relating to arrangements for the raising or expenditure of money to enable the football club to be purchased.

(5) The Scottish Ministers must, within the time limit specified in subsection (6), send notice of their decision as to consent and their reasons for it in writing to the supporters’ trust and to the owner of the football club and must direct the Keeper to enter a record of that decision in the Register.

(6) That time limit is—

(a) where one supporters’ trust has confirmed that it will exercise its right to buy the football club, the 21 days following receipt of notification, under section (activation of supporters’ trust right to buy), of the result of the ballot conducted by the body, or

(b) where two or more supporters’ trusts have confirmed that they will exercise their right to buy the club, the 21 days following receipt of such notification in respect of the last of the ballots conducted by those bodies.

(7) Any failure to comply with the time limit specified in subsection (6) above does not affect the validity of anything done under this section.
After section 62, insert—

<Declinature or extinction of right to buy>

(1) If, at any time, a supporters’ trust which has registered a supporters’ trust interest decides that it will not exercise its right to buy the football club, it must give the Scottish Ministers written notice of its decision.

(2) On receipt of a notice under subsection (1) above, the Scottish Ministers must—

   (a) send a copy of it to the Keeper and direct the Keeper to delete the supporters’ trust interest from the Register, and

   (b) notify the owner or operator of the football club of that fact.

(3) Where, when that notice is given, that right to buy has arisen, the right is then extinguished.

(4) Nothing in or done under subsections (1) to (3) above prevents a supporters’ trust from registering a supporters’ trust interest in the same football club for a second or subsequent time.

(5) If, at any time after the owner or operator of the club has given notice under section (activation of supporters’ trust right to buy) but before the owner has concluded missives with a supporters’ trust for the sale and purchase of the football club in respect of which a right to buy has arisen, the owner or operator of the football club decides not to proceed further with the proposed transfer the owner shall give written notice of that fact to—

   (a) the Scottish Ministers, and

   (b) each supporters’ trust which has registered an interest in the football club.

(6) The Scottish Ministers must send a copy of the notice given under subsection (5) to the Keeper.

(7) Where a notice is given under subsection (5), the right to buy the football club which arose under section (activation of supporters’ trust right to buy) is extinguished.

(8) Nothing in subsection (7) above prevents a right to buy a football club from arising for a second or subsequent time.>

After section 62, insert—

<Right to buy same club exercisable by only one supporters’ trust>

(1) Only one supporters’ trust may exercise the right to buy a football club in which two or more supporters’ trust bodies have registered supporters’ trust interests.

(2) Where two or more supporters’ trusts have confirmed that they will exercise their rights to buy such a football club it is for the Scottish Ministers to decide which one is to proceed.

(3) On the Scottish Ministers so deciding—

   (a) the other supporters’ trust’s right to buy the football club is extinguished, and
Procedure for buying

(1) It is for the supporters’ trust to make the offer to buy in exercise of the right conferred by this Part of this Act.

(2) The offer shall be at a price—

(a) agreed between the supporters’ trust and the owner or operator of the football club; or

(b) where no such agreement is reached, equal to—

(i) the value assessed by the appointed valuer, or

(ii) if that value is the subject of an appeal under section (appeals), the value determined by the appeal, and shall specify the date of transfer of ownership and of payment of the price in accordance with subsection (3).

(3) The date of transfer of ownership and payment of the price shall be—

(a) a date not later than 6 months from the date when the supporters’ trust sent the confirmation sought by the Scottish Ministers under section (procedure after activation of right to buy) of its intention to buy,

(b) where the price assessed by the appointed valuer is the subject of an appeal under section (appeals) which has not, within the period of 4 months after the date when the supporters’ trust sent that confirmation, been—

(i) determined, or

(ii) abandoned following agreement between the supporters’ trust and the owner of the club, a date not later than 2 months after the appeal is so determined or, as the case may be, abandoned, or

(iii) such later date as may be agreed between the supporters’ trust and the owner of the club.

(4) The offer may include such other reasonable conditions as are necessary or expedient to secure the efficient progress and completion of the transfer.

(5) If a supporters’ trust has not, within the period fixed by or agreed under subsection (3) above, done any of the things mentioned in subsection (6) below, the supporters’ trust right to buy the club is extinguished and the Scottish Ministers must—

(a) direct the Keeper to delete its interest in the club from the Register, and

(b) notify the owner of the club of that fact.

(6) The things referred to in subsection (5) above are—
(a) concluding missives with the owner or operator of the football club for its sale to the supporters’ trust,
(b) if the supporters’ trust has not so concluded missives, taking all steps which, in the opinion of the Scottish Ministers, it could reasonably have taken in the time available towards so concluding missives.

(7) The Scottish Ministers may, by regulations, make provision about when ownership is to be treated as transferred for the purposes of this section.

**Alison Johnstone**  
Supported by: Ken Macintosh

1245 After section 62, insert—

<Application for funding

1. Subject to the provisions of this section, the Scottish Ministers may make payments to a supporters’ trust applying to the Scottish Ministers for funding in order to make an offer to buy a football club in exercise of the right conferred by this Part of this Act.

2. Any supporters’ trust applying for funding must have—
   (a) obtained the approval of the supporters’ trust to proceed to buy the football club,
   (b) obtained the consent of the Scottish Ministers to proceed to buy the football club,
   (c) met any other conditions as the Scottish Ministers may so prescribe.

3. Any application for funding must be made in such form and manner and by such date as the Scottish Ministers may prescribe, and the applicant in question shall provide such particulars and information relating to the application as the Scottish Ministers may reasonably require.

4. The applicant shall furnish to the Scottish Ministers such further information and evidence in relation to the application as the Scottish Ministers reasonably may require in order to allow proper consideration of the application.

5. A person may submit more than one application under this paragraph.

6. The Scottish Ministers shall inform an applicant in writing whether the application is approved or not and if it is not approved shall give reasons in writing for not approving it.>

**Alison Johnstone**  
Supported by: Ken Macintosh

1246 After section 62, insert—

<Assessment of value of football club

1. The Scottish Ministers must, within 7 days of the receipt of a confirmation, sought by them under section *(procedure after activation of right to buy)* *(2)(a)*, that a supporters’ trust will exercise its right to buy the football club, appoint a valuer, being a person who appears to the Scottish Ministers to be suitably qualified, independent and to have knowledge and experience of valuing a club.

2. The validity of anything done under this section is not affected by any failure by the Scottish Ministers to comply with the time limit specified in subsection (1) above.
In assessing the value of the football club in pursuance of an appointment under subsection (1) above, a valuer—

(a) does not act on behalf of the owner or operator of the club or the supporters’ trust which is exercising its right to buy the football club, and

(b) shall act as an expert and not as an arbiter.

The value to be assessed is the market value of the football club—

(a) as at the date of notification under section (activation of supporters’ trust right to buy)(1) which gave rise to the right to buy the football club; or

(b) in a case where the supporters’ trust’s interest was registered in pursuance of an application to which section (procedure for late applications) applied, as at the date of the Scottish Ministers’ receipt of that application.

The “market value” of the football club, for the purposes of subsection (4), is the aggregate of the value it would have on the open market as between a seller and a buyer both of whom are, as respects the transaction, willing; and

In assessing, for those purposes, the value which the football would have in the circumstances mentioned in subsection (5) above—

(a) account may be taken, insofar as a seller and a buyer of the football club such as are mentioned in subsection (5) would do so, of any factor attributable to the known existence of a person who (not being the supporters’ trust which is exercising its right to buy the club) would be willing to buy the football club at a price higher than other persons because of a characteristic of the club which relates peculiarly to that person’s interest in buying it;

(b) no account shall be taken of—

(i) the registration of an interest in or the exercise of a right to buy the football club by a supporters’ trust under this Part of this Act,

(ii) the absence of the period of time during which the football club would, on the open market, be likely to be advertised and exposed for sale,

(iii) the expenses of the valuation or otherwise related to the sale and purchase of the club.

The expense of a valuation under this section shall be met by the Scottish Ministers.

After section 62, insert—

<Appeals

Appeals

(1) An owner or operator of a football club may, by summary application, appeal to the sheriff against—

(a) a decision by the Scottish Ministers that a supporters’ trust interest in the football club is to be entered in the Register,

(b) a decision by the Scottish Ministers to give consent to the exercise by a supporters’ trust of its right to buy the football club

(c) a decision by the independent valuer on the valuation of the football club.
(2) A supporters’ trust may, by summary application, appeal to the sheriff against—
   (a) a decision by the Scottish Ministers that its supporters’ trust interest is not to be entered in the Register or
   (b) a decision by the Scottish Ministers not to give consent to the exercise by the supporters’ trust of its right to buy,
   (c) a decision by the independent valuer on the valuation of the football club.

(3) A person who is a member of a supporters’ trust as defined for the purposes of section (meaning of “supporters’ trust”) in relation to a supporters’ trust or who has any interest in the football club giving rise to a right which is legally enforceable by that person may, by summary application, appeal to the sheriff against—
   (a) a decision by the Scottish Ministers that a supporters’ trust interest in a football club is to be entered in the Register on the application of the supporters’ trust, or
   (b) a decision by the Scottish Ministers to consent to the exercise of the supporters’ trust right to buy a football club.

(4) An appeal under subsection (1), (2) or (3) above shall be lodged within 28 days of the date on which the Scottish Ministers decided whether to enter the supporters’ trust interest or, as the case may be, whether to consent to the exercise of the right to buy the football club.

(5) The sheriff in whose sheriffdom the land or any part of it is situated has jurisdiction to hear an appeal under this section.

(6) Where an appeal is made—
   (a) under subsection (1) above the owner or operator shall intimate that fact to—
      (i) the supporters’ trust, and
      (ii) the Scottish Ministers;
   (b) under subsection (2) above the supporters’ trust shall intimate that fact to—
      (i) the owner or operator; and
      (ii) the Scottish Ministers; or
   (c) under subsection (3) above the member of the supporters’ trust shall intimate that fact to—
      (i) the supporters’ trust;
      (ii) the owner or operator; and
      (iii) the Scottish Ministers.

(7) The decision of the sheriff in an appeal under this section—
   (a) may require rectification of the Register;
   (b) may impose conditions upon the appellant;
   (c) is final.

Alison Johnstone
Supported by: Ken Macintosh

1248 After section 62, insert—
Supporters trust right to buy shares in a football club

(1) A supporters’ trust with a registered interest in a football club has a right to buy a proportion of the shares in that football club at any point when the right to buy that football club has been activated in accordance with section (activation of supporters’ trust right to buy).

(2) In buying shares under subsection (1), the supporters trust—

(a) may buy a proportion of shares that would enable the supporters’ trust to have a controlling interest in the football club,

(b) must buy at least 5% of the shares in the club.

(3) This section does not—

(a) preclude a supporters’ trust with a registered interest in a football club from purchasing shares in that football club at any other point at which shares are made available for sale,

(b) require a supporters’ trust with a registered interest in a football club to purchase shares in that club where a right to buy that club has been activated in accordance with section (activation of supporters’ trust right to buy).

Section 65

Marco Biagi
1085 In section 65, page 59, line 17, at beginning insert <where the local authority is Aberdeen City Council, Dundee City Council, the City of Edinburgh Council or Glasgow City Council,>

Marco Biagi
1086 In section 65, page 59, line 17, after <area,> insert—

<(  ) where the local authority is any other council, any community council whose area consists of or includes the area, or part of the area, to which the property mentioned in subsection (1) related prior to 16 May 1975,>

Section 66

Cameron Buchanan
1249 In section 66, page 59, line 30, leave out subsection (2)

Cameron Buchanan
1250 In section 66, page 59, line 32, leave out <or (2)>

Section 68

Ken Macintosh
1164 In section 68, page 60, line 14, leave out <is>
Ken Macintosh

1165 In section 68, page 60, line 15, at beginning insert <is>

Ken Macintosh

1166 In section 68, page 60, line 16, at beginning insert <is>

Ken Macintosh

1167 In section 68, page 60, line 17, at beginning insert <is>

Cameron Buchanan

1251 In section 68, page 60, leave out line 20

Aileen McLeod

1229 In section 68, page 60, leave out line 21 and insert—

<(d) no more than 250 square metres in area.>

Ken Macintosh

1168 In section 68, page 60, leave out line 21 and insert—

<(d) meets one of the requirements as to size set out in subsections (2) and (3).>

(2) The requirement is that the land is of a size of approximately 250 square metres.

(3) The requirement is that the land is of such size (being a size smaller than that set out in subsection (2)) as has been requested by the person leasing or intending to lease the land from the authority.>

Cameron Buchanan

1252 In section 68, page 60, line 21, leave out <prescribed> and insert <determined by a local authority in relation to its area.>

After section 69

Aileen McLeod

1230 After section 69, insert—

<Regulations as to size of allotments>

Regulations as to size of allotments

(1) The Scottish Ministers must by regulations make provision for or in connection with the size or sizes of an allotment (but without affecting section 68(d)).

(2) Before making any regulations under subsection (1), the Scottish Ministers must consult—

(a) each local authority, and

(b) such other persons as they consider appropriate.>
Section 70

Aileen McLeod

1169 In section 70, page 60, line 34, leave out <who has a physical impairment>

Aileen McLeod

1170 In section 70, page 61, line 2, after <to> insert <an allotment site or>

Cameron Buchanan

1253 In section 70, page 61, line 8, leave out <28> and insert <14>

Section 72

Cameron Buchanan

1254 In section 72, page 61, line 29, leave out <one half of>

Ken Macintosh

1171 In section 72, page 61, line 30, at end insert <, and

( ) that the number of persons so entered who have been on the list for more than five years is zero.>

Alex Rowley

1255* In section 72, page 61, line 39, at end insert—

<( ) Where the duty imposed by subsection (1) applies, a local authority must, in taking the reasonable steps mentioned in that subsection, have regard to the need for allotments to be made available in areas that are in reasonable proximity to the areas where persons on the list mentioned in that subsection reside.>

After section 72

Aileen McLeod

1172 After section 72, insert—

<Access to allotment and allotment site>

(1) Where a local authority leases an allotment to a tenant, it must provide reasonable access to the allotment and any allotment site on which the allotment is situated.

(2) Where a local authority leases an allotment site to a tenant, it must provide reasonable access to the allotment site and allotments on the site.>
Section 73

Aileen McLeod

1173 In section 73, page 62, line 24, after <rent> insert <, including a method of determining fair rent that takes account of—

(i) services provided by, or on behalf of, the local authority to tenants of allotments,

(ii) the costs of providing those services, and

(iii) circumstances that affect, or may affect, the ability of a person to pay the rent payable under the lease of an allotment>

Ken Macintosh
Supported by: John Wilson

1174 In section 73, page 62, line 32, at end insert—

<(3A) Provision made by virtue of subsection (3)(b) must secure that the rent to be paid by allotment tenants represents an appropriate balance between the level of services provided in relation to the allotments (and the cost of providing and maintaining those services) and the rent being affordable for current and prospective allotment tenants.>

(3B) Each local authority must publish, in such manner as it considers appropriate, a statement explaining why it considers that the rent to be paid by allotment tenants represents an appropriate balance between the things mentioned in subsection (3A).>

Aileen McLeod

1175 In section 73, page 62, leave out line 35

Cameron Buchanan

1256 In section 73, page 63, leave out lines 3 and 4 and insert—

<(  ) Regulations under subsection (1) may not include provision for or in connection with the sale of surplus produce.>

Aileen McLeod

1176 In section 73, page 63, line 3, leave out from <(in> to <87(1))> in line 4

Aileen McLeod

1177 In section 73, page 63, line 6, leave out <types of allotment site> and insert <allotment sites>

Section 75

Aileen McLeod

1178 In section 75, page 64, line 19, after first <of> insert <the whole or part of>
Aileen McLeod

1179 In section 75, page 64, line 19, after second <of> insert <the whole or part of>

1180 In section 75, page 64, line 20, at end insert—

( ) Before deciding whether to grant consent, the Scottish Ministers must—
(a) seek the views of the local authority on the proposed decision, and
(b) consult such other persons appearing to them to have an interest in the proposed disposal or change of use.>

Aileen McLeod

1181 In section 75, page 64, line 24, after <on> insert <the whole or part of>

1182 In section 75, page 64, line 25, after <allotment> insert —

( ) on the allotment site, or>

Aileen McLeod

1183 In section 75, page 64, line 28, at end insert—

( ) Any transfer of ownership of the whole or part of the allotment site, and any deed purporting to transfer such ownership, without the consent of the Scottish Ministers is of no effect.>

Cameron Buchanan

1257 Leave out section 75

Section 76

Aileen McLeod

1184 In section 76, page 64, line 31, after first <of> insert <the whole or part of>

Aileen McLeod

1185 In section 76, page 64, line 33, after second <of> insert <the whole or part of>

Aileen McLeod

1186 In section 76, page 64, line 35, at end insert—

( ) Before deciding whether to grant consent mentioned in subsection (2) or (3), the Scottish Ministers must—
(a) seek the views of the local authority on the proposed decision, and
(b) consult with such other persons appearing to them to have an interest in the proposed renunciation or change of use.>
Aileen McLeod

1187 In section 76, page 65, line 1, after <on> insert <the whole or part of>

Aileen McLeod

1188 In section 76, page 65, line 2, after <allotment> insert <—

( ) on the allotment site, or>

Aileen McLeod

1189 In section 76, page 65, line 5, at end insert —

<( ) Any renunciation of the local authority’s lease of the whole or part of the allotment site, and any deed purporting to renounce the lease, without the consent of the Scottish Ministers is of no effect.>

Cameron Buchanan

1258 Leave out section 76

Section 77

Cameron Buchanan

1259 In section 77, page 65, line 7, leave out <Each local authority must> and insert <A local authority may>

Cameron Buchanan

1260 In section 77, page 65, line 8, leave out subsection (2)

Alex Rowley

1261 In section 77, page 65, line 20, at end insert —

<( ) The description required by subsection (3)(c) must in particular describe whether and how the authority intends to increase the types of provision referred to in paragraphs (a) and (b) of that subsection in communities which experience socio-economic disadvantage.>

Cameron Buchanan

1262 In section 77, page 65, line 21, leave out subsection (4)

Section 78

Cameron Buchanan

1263 Leave out section 78
Section 79

Aileen McLeod

1190 In section 79, page 65, line 37, at end insert—

<(  ) where the whole of an allotment site is leased from the authority by one person, the proportion of land on the allotment site (excluding any land falling within paragraph (b) of the definition of “allotment” in section 69) that is not subleased from the tenant of the allotment site,>

Aileen McLeod

1191 In section 79, page 66, line 1, leave out <the proportion of land on each> and insert <where allotments on an allotment site are leased from the authority by more than one person, the proportion of land on the>

Aileen McLeod

1192 In section 79, page 66, line 11, at end insert—

<(  ) the number of persons mentioned in paragraph (g) who, on the final day of the reporting year to which the report relates, have been entered in the list mentioned in that paragraph for a continuous period of more than 5 years,>

Aileen McLeod

1193 In section 79, page 66, line 15, leave out <who has a physical impairment>

Aileen McLeod

1194 In section 79, page 66, line 17, leave out <who has a physical impairment>

Section 81

Aileen McLeod

1195 In section 81, page 67, line 36, at end insert—

<(  ) This section applies where—

(a) a local authority owns or leases an allotment site, and

(b) one or more allotments on the allotment site are leased to tenants.>

Aileen McLeod

1196 In section 81, page 67, line 37, leave out <the tenants of each allotment on an allotment site> and insert <all or a majority of the tenants>

Aileen McLeod

1197 In section 81, page 67, line 38, leave out <that owns or leases the site>
Cameron Buchanan

1264  In section 81, page 68, line 26, after <include> insert <valid>

Section 82

Alex Rowley

1265  In section 82, page 69, line 8, at end insert—

\(<(  )>\)  In deciding whether to incur, or incurring, any expenditure for the purpose mentioned in paragraphs (a) and (b) of subsection (1), a local authority must have regard to the desirability of incurring such expenditure in relation to communities which experience socio-economic disadvantage.>

After section 82

Aileen McLeod

1198  After section 82, insert—

<Use of local authority premises for meetings>

(1)  In relation to an allotment site, the persons mentioned in subsection (2) may make a request to the local authority in whose area the site is situated to use free of charge the premises mentioned in subsection (3) for the purpose of holding a meeting of the tenants of allotments on the site about the site.

(2)  The persons are—

(a)  a tenant of the allotment site,  
(b)  a person referred to in section 81(1).

(3)  The premises are—

(a)  premises in a public school or grant-aided school within the area of the local authority,  
(b)  other premises within the area of the local authority which are maintained by the authority.

(4)  The request must—

(a)  be made in writing,  
(b)  include the name and address of the person making the request,  
(c)  include information about the proposed date, time, location and purpose of the proposed meeting,  
(d)  be made at least one month before the date on which the meeting is proposed to take place.

(5)  The local authority must, before the end of the period of 14 days beginning with the day on which it receives the request, write to the person who made the request to—

(a)  grant the request,  
(b)  offer the person an alternative date, time or location for the proposed meeting, or  
(c)  refuse the request.
In this section, “public school” and “grant-aided school” have the meanings given by section 135(1) of the Education (Scotland) Act 1980.

Section 83

**Aileen McLeod**

1199 In section 83, page 69, line 11, at beginning insert <Despite any provision to the contrary in the lease of an allotment or an allotment site,>

**Aileen McLeod**

1200 In section 83, page 69, line 11, leave out <an allotment or an> and insert <the allotment or>

**Aileen McLeod**

1201 In section 83, page 69, line 12, after <date> insert <; but may do so only>

**Cameron Buchanan**

1266 In section 83, page 69, line 22, leave out from <Scottish> to end of line 29 and insert <local authority intends to—

(a) dispose of,
(b) change the use of, or
(c) renounce its lease of,

the allotment site subject to the lease or, as the case may be, the allotment site on which the allotment is situated.>

Section 84

**Aileen McLeod**

1202 In section 84, page 70, line 23, leave out first <of> and insert <to the contrary in>

**Aileen McLeod**

1203 In section 84, page 70, line 24, after <site> insert <; but may do so only>

**Aileen McLeod**

1204 In section 84, page 70, leave out line 28

**Cameron Buchanan**

1267 In section 84, page 70, line 28, leave out from beginning to <resumption.>

**Aileen McLeod**

1205 In section 84, page 70, line 30, at end insert <, and

( ) the Scottish Ministers have consented to the notice given under paragraph (c).>
Cameron Buchanan

1268 In section 84, page 70, line 36, leave out subsections (4) and (5)

Section 85

Aileen McLeod

1206 In section 85, page 71, leave out lines 10 to 12 and insert—

<(  ) an allotment site is leased to a local authority,
(  ) the authority has granted a sublease of—
   (i) the allotment site, or
   (ii) an allotment on the allotment site,>

Aileen McLeod

1207 In section 85, page 71, line 13, after third <of> insert <the whole or part of>

Aileen McLeod

1208 In section 85, page 71, line 13, at end insert <, and

   (  ) the sublease is of land that is the same as, or forms part of, the land to which the notice relates.>

Aileen McLeod

1209 In section 85, page 71, line 15, at end insert <the subtenant of the sublease, and>

   (  ) notify the subtenant of the sublease—
      (i) of the date on which the lease of the whole or part of the allotment site is terminated, and
      (ii) that the subtenant’s sublease is terminated on that date.>

Aileen McLeod

1210 In section 85, page 71, leave out lines 16 to 21

Section 86

Aileen McLeod

1211 In section 86, page 71, line 24, leave out from <a> to <tenant> in line 25 and insert <notice under section 83(1) or 84(2), or sends a copy of a notice under section 85(2)(a), to the tenant of the whole or part>

Aileen McLeod

1212 In section 86, page 71, line 26, leave out from beginning to <tenant,> in line 27 and insert—

<(  ) the tenant subleases allotments on the whole or part of the allotment site to one or more subtenants,>
In section 86, page 71, line 28, leave out from first <of> to end of line and insert <represents the interests of the subtenants>.

In section 86, page 71, leave out lines 31 to 34 and insert—

<i>( ) notify each subtenant—

(i) of the date on which the lease of the whole or part of the allotment site is terminated, and

(ii) that the subtenant’s sublease is terminated on that date.>

Before section 87

Before section 87, insert—

<Prohibition against assignation or subletting>

(1) The tenant of an allotment must not assign the lease of the whole or part of the allotment without the consent of the local authority which granted the lease.

(2) The tenant of an allotment must not sublet the whole or part of an allotment to any person.

(3) A purported assignation of the lease of the whole or part of an allotment contrary to subsection (1) is of no effect.

(4) A purported sublease of the whole or part of an allotment contrary to subsection (2) is of no effect.>

Section 87

In section 87, page 71, line 37, at beginning insert <Subject to any regulations under section 73(1),>.

In section 87, page 71, line 37, leave out <(other than with a view to making a profit)>.

In section 87, page 71, line 38, leave out from <if> to end of line 3 on page 72.

Section 88

In section 88, page 72, line 8, at end insert—
<( ) any buildings (or other structures) acquired by the tenant,>

Section 89

Aileen McLeod

1219 In section 89, page 72, line 24, leave out <in whose area the allotment is situated> and insert <giving or, as the case may be, receiving a notice mentioned in paragraph (a) of subsection (1)>.

Aileen McLeod

1220 In section 89, page 72, line 25, leave out <subsection (1)(b)> and insert <paragraph (b) of that subsection>.

Section 90

Aileen McLeod

1221 In section 90, page 73, line 26, leave out <(3)> and insert <(4)>.

Section 91

Cameron Buchanan

1270 In section 91, page 73, line 36, after <is> insert <, except where the tenant had a reasonable opportunity to remove the crop prior to the resumption,>.

Section 92

Aileen McLeod

1222 In section 92, page 74, line 20, leave out <the> and insert <a>.

After section 93

Marco Biagi

1223 After section 93, insert—

PART

Participation in public decision-making

Participation in decisions of certain persons exercising public functions

(1) The Scottish Ministers may by regulations make provision for or in connection with the purpose mentioned in subsection (2).

(2) The purpose is promoting or facilitating participation in relation to decisions of such persons as may be specified (in this section, “relevant persons”) relating to activities carried out, or proposed to be carried out, by or on behalf of those persons.

(3) Regulations under subsection (1) may enable relevant persons to determine—
(a) the persons whose participation in relation to such decisions is to be promoted or facilitated, and
(b) which of those decisions persons so determined may participate in relation to.

(4) Regulations under subsection (1) may provide that activities as mentioned in subsection (2) include the allocation of—
   (a) financial resources, and
   (b) such other resources as may be specified.

(5) Regulations under subsection (1) may, in particular, include provision—
   (a) (without prejudice to subsection (3)), conferring functions on relevant persons,
   (b) specifying activities as mentioned in subsection (2) in relation to which the regulations apply, or do not apply,
   (c) specifying classes of such activities in relation to which the regulations apply, or do not apply,
   (d) specifying criteria for determining such activities in relation to which the regulations apply, or do not apply,
   (e) requiring relevant persons to prepare and publish a report, at such intervals as may be specified, describing the steps taken by the persons in connection with the carrying out of functions conferred on them by the regulations.

(6) Relevant persons must have regard to any guidance issued by the Scottish Ministers relating to functions conferred on them by regulations under subsection (1).

(7) Regulations under subsection (1) may specify a person in relation to whose decisions participation is to be promoted or facilitated only if the person is—
   (a) a part of the Scottish Administration, or
   (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998).

(8) In this section, “specified” means specified in regulations made under subsection (1).

Section 94

Cameron Buchanan

1271 In section 94, page 75, line 24, after <to> insert <the authority’s expenditure, income and>

Section 96

Marco Biagi

1087 In section 96, page 76, line 13, after <section> insert <16(2) or (3), 51(2) or (3), 58(2)(c) or>

Marco Biagi

1038* In section 96, page 76, line 17, after <section> insert <4(6), 8(3),>
In section 96, page 76, line 17, after <12(1)> insert <or (Participation in decisions of certain persons exercising public functions)>.

In section 96, page 76, line 19, at end insert—

<(   ) regulations under section 1(1),>.

In schedule 4, page 80, line 3, at end insert—

<Small Landholders (Scotland) Act 1911>

In section 26 of the Small Landholders (Scotland) Act 1911 (supplementary provisions and restrictions), in subsection (3)(e), for “the Allotments (Scotland) Act, 1892, or the Local Government (Scotland) Act, 1894” substitute “Part 7 of the Community Empowerment (Scotland) Act 2015”.

In section 18 of the Compensation (Defence) Act 1939 (application to Scotland and Northern Ireland), in subsection (1), for “the Allotments Act, 1922 shall be construed as a reference to the Allotments (Scotland) Act, 1922” substitute “allotment gardens within the meaning of the Allotments Act, 1922 is omitted”.

In section 26 of the Agriculture (Scotland) Act 1948 is amended as follows.

(2) In the proviso to subsection (1), in paragraph (a), for “allotment gardens” substitute “allotments”.

(3) In subsection (3), for the definition of “allotment garden” substitute—

“Allotment” has the meaning given by section 68 of the Community Empowerment (Scotland) Act 2015;”.

In section 41 (provisions as to allotment gardens and other allotments), in subsection (3), for the words from “the”, where it third occurs, to the end substitute “section 68 of the Community Empowerment (Scotland) Act 2015”.

In the Eighth Schedule (tenancies of allotment gardens and other allotments), in paragraph 10—

(a) for sub-paragraph (a) substitute—

“(a) paragraph 1 applies as if sub-paragraph (2) were omitted;”;

(b) for sub-paragraph (b) substitute—
“(b) sub-paragraph (1) of paragraph 3 applies as if for “the Act of 1908 or the Act of 1922 or the Allotments Act, 1950, or by virtue of any other enactment relating to allotments” there were substituted “Part 7 of the Community Empowerment (Scotland) Act 2015”;”,

(c) for sub-paragraph (c) substitute—

“(c) sub-paragraph (2) of paragraph 3 applies as if—

(i) for “any of the enactments mentioned in the next following sub-paragraph” there were substituted “Part 7 of the Community Empowerment (Scotland) Act 2015 (but excluding any compensation for disturbance)”;

(ii) “garden” were omitted, and

(iii) for “subsection (2) of section two of the Act of 1922” there were substituted “section 84(2) of the Community Empowerment (Scotland) Act 2015;”,

(d) in sub-paragraph (e), for the words from “for” to the end substitute “any reference to the Allotments Act, 1950 is to be read as a reference to Part 7 of the Community Empowerment (Scotland) Act 2015”, and

(e) for sub-paragraph (f) substitute—

“(f) sub-paragraph (1) of paragraph 5 applies as if for “section four or section five of the Act of 1922, or of subsection (4) of section forty-seven of the Act of 1908” there were substituted “section 88 of the Community Empowerment (Scotland) Act 2015”;.”.

Marco Biagi

1039 In schedule 4, page 80, line 3, at end insert—

&lt;Local Government (Scotland) Act 1973

In the Local Government (Scotland) Act 1973—

(a) in section 99 (general duties of auditors), in subsection (1)(c), for “sections 15 to 17 (community planning) of the Local Government in Scotland Act 2003 (asp 1)” substitute “Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning)”, and

(b) in section 102 (reports to Commission by Controller of Audit), in subsection (1)(c)—

(i) the words “and Part 2 (community planning)” are repealed, and

(ii) at the end insert “and Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning)”.

Marco Biagi

1040 In schedule 4, page 80, line 8, at end insert—

&lt;Local Government in Scotland Act 2003

In section 57 of the Local Government in Scotland Act 2003 (power to modify enactments), in subsection (2)(a), for “, 13(1) or 15(1)” substitute “or 13(1)”.
Marco Biagi

1041 In schedule 4, page 81, line 19, at end insert—

*Fire (Scotland) Act 2005*

In the *Fire (Scotland) Act 2005*—

(a) in section 41E (local fire and rescue plans), in subsection (6), for “Local Government in Scotland Act 2003 (asp 1)” substitute “Community Empowerment (Scotland) Act 2015”, and

(b) in section 41J (Local Senior Officers), in subsection (2)(c), for “section 16(1)(d) of the Local Government in Scotland 2003 (asp 1) (duty to participate in community planning)” substitute “Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning)”.>  

*Police and Fire Reform (Scotland) Act 2012*

In the *Police and Fire Reform (Scotland) Act 2012*—

(a) in section 46 (duty to participate in community planning), in subsection (2), for “section 16(1)(e) of the Local Government in Scotland Act 2003” substitute “Part 2 of the Community Empowerment (Scotland) Act 2015”, and

(b) in section 47 (local police plans), in subsection (11), for “Local Government in Scotland Act 2003 (asp 1)” substitute “Community Empowerment (Scotland) Act 2015”.>

Schedule 5

Aileen McLeod

1226 In schedule 5, page 81, line 27, at end insert—

*Agricultural Land (Utilisation) Act 1931* Section 24(j).

*Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947* Section 1(4)(b).>

Aileen McLeod

1227 In schedule 5, page 81, line 28, at end insert—


*Opencast Coal Act 1958* In the Eighth Schedule, in paragraph 10(h), the words from “but” to the end.


Aileen McLeod

1228 In schedule 5, page 81, line 29, at end insert—
In Schedule 27, paragraphs 16 to 20, 54 and 58 to 60.

Local Government etc. (Scotland) Act 1994

In Schedule 13, paragraphs 6, 12 and 35.

Marco Biagi

1042 In schedule 5, page 81, line 30, at end insert—

<Section 57(2)(b).>