

Land Reform (Scotland) Bill

[AS INTRODUCED]

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**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:
Explanatory Notes (SP Bill 44-EN), a Financial Memorandum (SP Bill 44-FM), a Policy
Memorandum (SP Bill 44-PM), a Delegated Powers Memorandum (SP Bill 44-DPM) and
statements on legislative competence (SP Bill 44-LC).**

Land Reform (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the management and transfer of large holdings of land; to require the Scottish Ministers to make publicly available a model lease for environmental purposes; to modify the law on small landholdings and agricultural holdings; and for connected purposes.

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PART 1

LARGE LAND HOLDINGS: MANAGEMENT AND TRANSFER OF OWNERSHIP

1 Community-engagement obligations in relation to large land holding

- (1) The Land Reform (Scotland) Act 2016 is modified as follows.
- (2) The title of Part 4 becomes “Community engagement in relation to land”.
- (3) Before section 44 insert—

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“CHAPTER 1

COMMUNITY-ENGAGEMENT GUIDANCE”.

- (4) After section 44 insert—

“CHAPTER 2

COMMUNITY-ENGAGEMENT OBLIGATIONS FOR OWNERS OF LARGE LAND HOLDINGS

Creation of obligations

44A Power to impose obligations by regulations

- (1) The Scottish Ministers may by regulations impose obligations on the owner of land for the purpose of promoting community engagement in relation to the land.
- (2) Without prejudice to the generality of the power conferred by this section, the Scottish Ministers must exercise it to impose obligations in accordance with sections 44B and 44C.
- (3) Regulations under this section may impose obligations only in connection with land to which section 44D applies.

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- (4) Regulations under this section are to be informed by the land rights and responsibilities statement published in accordance with Part 1.
- (5) Before making regulations under this section, the Scottish Ministers must consult the Land and Communities Commissioner.

5 **44B Regulations to include obligation to have land management plan**

- 10 (1) Regulations under section 44A must require the owner of land to ensure that—
- (a) there is a publicly available land management plan in relation to the land,
 - (b) there is engagement with communities on the development of, and significant changes to, the plan,
 - (c) the plan is reviewed and, where appropriate revised, before the end of each period of 5 years beginning with the day on which the latest version of it was made publicly available.
- 15 (2) Subsection (1) does not require the obligation it describes to be imposed in connection with all land to which section 44D applies.
- 20 (3) Regulations under section 44A must set out the information that a land management plan is to contain, which is to include—
- (a) details of the land to which the plan relates, including how the ownership is structured,
 - (b) the owner's long-term vision and objectives for managing the land, including its potential sale,
 - (c) how, in relation to the land, the owner is complying or intends to comply with—
 - 25 (i) the obligations set out in the regulations,
 - (ii) the Scottish Outdoor Access Code in operation in pursuance of section 10 of the Land Reform (Scotland) Act 2003,
 - (iii) the code of practice on deer management in operation in pursuance of section 5A of the Deer (Scotland) Act 1996,
 - (d) how the owner is managing or intends to manage the land in a way that contributes towards—
 - 30 (i) achieving the net-zero emissions target set by section A1 of the Climate Change (Scotland) Act 2009,
 - (ii) adapting to climate change,
 - (iii) increasing or sustaining biodiversity.

35 **44C Regulations to include obligation to consider community request to lease land**

- (1) Regulations under section 44A must require the owner of land to give consideration to a reasonable request from a community body to lease the land or any part of it (including any building on it).

- (2) Subsection (1) does not require the obligation it describes to be imposed in connection with all land to which section 44D applies.
- (3) In this section, “community body” means a community body within the meaning of section 34 of the Land Reform (Scotland) Act 2003.

5 **44D Land in relation to which obligations may be imposed**

- (1) This section applies to land to which subsection (2) or (3) apply.
- (2) This subsection applies to land that is—
 - (a) a single holding, or
 - (b) a composite holding,that exceeds 3,000 hectares in area.
- (3) This subsection applies to land that—
 - (a) forms part of an inhabited island, and
 - (b) is a single holding or a composite holding that—
 - (i) exceeds 1,000 hectares in area, and
 - (ii) constitutes more than 25% of the land forming the island.
- (4) For the purposes of this section—
 - (a) a single holding is the whole of a contiguous area of land in the ownership of one person or set of persons,
 - (b) a single holding (“holding A”) forms part of a composite holding with another (“holding B”) if the conditions in subsection (5) are met,
 - (c) a composite holding may consist of any number of single holdings.
- (5) The conditions referred to in subsection (4)(b) are that—
 - (a) a boundary of holding A is (wholly or partly) contiguous with a boundary of holding B, and
 - (b) the owner of holding A is either—
 - (i) also the owner of another single holding that forms part of a composite holding of which holding B forms part, or
 - (ii) connected to the owner of another single holding that forms part of a composite holding of which holding B forms part.
- (6) For the purposes of subsection (5)(b)—
 - (a) one person is connected to another person if—
 - (i) they are both companies in the same group,
 - (ii) one has a controlling interest in the other, or
 - (iii) a person holds a controlling interest in them both,
 - (b) companies are in the same group if they are, or are included in a number of, companies which, by virtue of section 170 of the Taxation of

Chargeable Gains Act 1992, together form part of a group for the purposes of sections 171 to 181 of that Act,

- (c) one person (“person A”) has a controlling interest in another (“person B”) if regulations under section 39 provide that person A is to be treated as having a controlling interest in person B.

- (7) In subsection (3), the reference to an inhabited island is to be construed in accordance with section 1 of the Islands (Scotland) Act 2018.

Enforcement of obligations

44E Reporting alleged breach to Land and Communities Commissioner

- (1) A person mentioned in subsection (2) may submit a report of an alleged breach of an obligation imposed by regulations under section 44A to the Land and Communities Commissioner.

- (2) The persons referred to in subsection (1) are—

- (a) a body that has registered an interest, or is eligible to register an interest, under Part 2 of the Land Reform (Scotland) Act 2003 in the land to which the report of the alleged breach relates,
- (b) Historic Environment Scotland,
- (c) a local authority, if the land to which the report of the alleged breach relates falls (wholly or partly) within its area,
- (d) the Scottish Environment Protection Agency,
- (e) Scottish Natural Heritage.

- (3) A report under subsection (1) must contain—

- (a) details of the person that submitted the report,
- (b) details of the alleged breach,
- (c) the provision of the regulations imposing the obligation that is alleged to have been breached.

44F Commissioner’s decision to investigate

- (1) The Land and Communities Commissioner may investigate an alleged breach reported under section 44E only if satisfied that—

- (a) the report contains sufficient information to proceed to an investigation, and
- (b) the report is not based on substantially the same facts as a previous report from the same person.

- (2) Where the Commissioner is not satisfied that the report contains sufficient information to proceed to an investigation, the Commissioner may require the person that submitted the report to provide such additional information as the Commissioner considers appropriate, by the end of such period as the Commissioner may specify.

- (3) The Commissioner may decline to investigate a report of an alleged breach by giving notice in writing to the person that submitted the report where—
- (a) the condition in subsection (1) is not satisfied,
 - (b) a request by the Commissioner under subsection (2) for additional information has been made and the period specified for providing the information has expired without the requested information being provided, or
 - (c) the Commissioner considers that a request under subsection (2) for additional information would not provide sufficient information to proceed to an investigation.
- (4) Where the Commissioner decides to investigate an alleged breach, the Commissioner must—
- (a) give notice in writing to the person that submitted the report that the Commissioner has decided to investigate the alleged breach, and
 - (b) send to the person alleged to have committed the breach—
 - (i) a copy of the report alleging the breach, and
 - (ii) a request for the person's response to the report within a period specified by the Commissioner.

44G Power to require information be provided

- (1) The Land and Communities Commissioner may, at any time during an investigation under this Chapter, require any person to provide any information that the Commissioner considers appropriate for the purposes of the investigation.
- (2) The Commissioner may, by notice, impose a fine on a person for failing to comply with a requirement under subsection (1).
- (3) The amount of a fine imposed under this section is to be determined by the Commissioner, but must not exceed £1,000.

44H Sanction for breach of obligation

- (1) Having determined, following an investigation under this Chapter, that an obligation has been breached, the Land and Communities Commissioner may, by notice, impose a fine on the person that committed the breach.
- (2) But the Commissioner may impose a fine under this section only if—
- (a) the person that committed the breach has been given an opportunity to make an agreement with the Commissioner about what the person must do to remedy the breach and the person either—
 - (i) has refused to make an agreement, or
 - (ii) having made an agreement, has failed to fulfil it, or
 - (b) the Commissioner does not consider it appropriate to give the person that committed the breach an opportunity to remedy it, having regard to

the person's previous failure (or failures) to comply with an obligation imposed by regulations under section 44A.

- (3) The amount of a fine imposed under this section is to be determined by the Commissioner, but must not exceed £5,000.

44I Appeal against fine

- (1) A person on whom a fine is imposed under section 44G or 44H may appeal to the Lands Tribunal for Scotland against the fine on the ground that the decision to impose it—

- (a) was based on an error of fact,
- (b) was wrong in law, or
- (c) was unfair or unreasonable for any reason (for example because the amount is unreasonable).

- (2) An appeal under subsection (1) must be made before the end of the period of 28 days beginning with the day on which the notice imposing the fine was received by the person making the appeal.

- (3) Where an appeal under subsection (1) is made, the fine is suspended from the day on which the appeal is made until the day on which it is determined or withdrawn.

- (4) On an appeal under subsection (1), the Tribunal may overturn, confirm or vary the fine.

- (5) In the case of an appeal against a fine imposed under section 44H, having overturned the fine, the Tribunal may remit the matter to the Land and Communities Commissioner to give the person concerned an opportunity to make an agreement with the Commissioner about what the person must do to remedy the breach in relation to which the fine was imposed.

- (6) Where a matter is remitted to the Commissioner and the person concerned—

- (a) refuses to make an agreement with the Commissioner about what the person must do to remedy the breach in question, or
- (b) makes such an agreement but fails to fulfil it,

the Commissioner may exercise again the power conferred by section 44H to impose a fine on the person in respect of the breach.

Further provision in connection with enforcement

44J Notice imposing fine

- (1) A notice imposing a fine under section 44G or 44H must be in writing and state—

- (a) the grounds for imposing the fine,
- (b) the amount of the fine,

- (c) the period within which the fine must be paid, which period must be not less than 28 days beginning with the day on which the notice imposing the fine is received,
- (d) how it must be paid,
- 5 (e) information about the right to appeal under section 44I, and
- (f) the consequences of failure to make payment within the period specified.
- (2) For the purpose of subsection (1)(c), a notice is deemed to be received 48 hours after it is sent.

44K Further provision about fines

- 10 (1) Money received by the Commission in payment of a fine imposed under section 44G or 44H must be paid into the Scottish Consolidated Fund.
- (2) The Commission may recover any fine imposed under either of those sections as a civil debt.

44L Confidentiality of information obtained in investigation

- 15 (1) A relevant person must not disclose any information which has been obtained by or on behalf of the Land and Communities Commissioner for the purposes of an investigation under this Chapter unless authorised to do so.
- (2) Disclosure is authorised for the purposes of subsection (1) only so far as—
- 20 (a) it is necessary for the purpose of enabling or assisting the exercise by the Commissioner of the Commissioner's functions,
- (b) it is made with the consent of each person to whom the information relates,
- (c) it is made for the purposes of civil proceedings,
- 25 (d) it is made for the purposes of a criminal investigation or criminal proceedings or for the purposes of the prevention or detection of crime,
- (e) it is made in pursuance of an order of a court or tribunal,
- (f) it is made in accordance with any other enactment requiring or permitting the disclosure.
- (3) A person who knowingly contravenes subsection (1) commits an offence.
- 30 (4) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.
- (5) It is a defence for a person charged with an offence under subsection (3) to prove that the person reasonably believed—
- 35 (a) that the disclosure was authorised under subsection (2), or
- (b) that the information had already lawfully been made available to the public.

- (6) In subsection (1), “relevant person” means any individual who is or was—
- (a) the Commissioner (or acting Land and Communities Commissioner),
 - (b) a Land Commissioner,
 - (c) a member of the Commission’s staff,
 - (d) a person exercising functions on behalf of the Commission or its members.

Modification of Chapter 2 by regulations

44M Powers to modify Chapter

The Scottish Ministers may by regulations modify this Chapter so as to change—

- (a) the land in relation to which obligations may be imposed by regulations under section 44A,
 - (b) the list of persons in section 44E(2).”.
- (5) In section 126 (subordinate legislation), in subsection (3), after paragraph (b) insert—
- “(ba) section 44A,
 - (bb) section 44M.”.

2 Community right to buy: registration of interest in large land holding

- (1) The Land Reform (Scotland) Act 2003 is modified as follows.
- (2) In section 39 (procedure for late applications), for subsection (1) substitute—
- “(1) This section (other than subsections (4A) and (5)) applies in relation to an application to register a community interest in land if—
- (a) it satisfies—
 - (i) the conditions mentioned in subsection (1A), or
 - (ii) the condition mentioned in subsection (1B), and
 - (b) it is not an application to which section 39ZA applies.”.
- (3) After section 39 insert—

“39ZA Procedure for application invited under section 46G

- (1) This section applies in relation to an application to register a community interest in land if it—
- (a) is made by a community body that Ministers invited to make an application in accordance with section 46G,
 - (b) relates to the land in respect of which Ministers invited the community body to make an application,
 - (c) is made within the period that the invitation explained the application had to be made within for it to be considered in accordance with this section, and

(d) is the only application that the community body has made within the period in relation to the land.

(2) Where this section applies in relation to an application, the procedure for registering community interests in land set out in section 37 is, for the purposes of the application, subject to the following modifications—

(a) paragraph (b) of subsection (9) does not apply, and

(b) in subsection (17), for “63” there is substituted “30”.

(3) Where this section applies in relation to an application, Ministers may not decide that a community 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 38) satisfied—

(a) that the level of support within the community for such registration is significantly greater than that which Ministers would, by virtue of subsection (2) of section 38, have considered sufficient for the purposes of subsection (1)(d) of that section, and

(b) that the factors bearing on whether it is or is not in the public interest that the community interest be registered are strongly indicative that it is.

(4) Where a community interest in land is registered in pursuance of an application in relation to which this section applies—

(a) the owner of the land is, for the purposes of this Part of this Act (other than section 59(4)), deemed to have, on the date on which that interest is so registered, given notice under section 48(1) that a transfer is proposed,

(b) section 49 does not apply in so far as it relates to that interest,

(c) for the purposes of sections 55(2) and (4), 56(3), 59(1), 60A(1) and 65(1)(a), the community body is deemed to have sent the confirmation which Ministers would, had section 49 applied, have required to seek under subsection (2)(a) of that section on the date on which the interest is registered.”.

(4) After section 46 insert—

“CHAPTER 2A

EXTENDED OPPORTUNITY TO REGISTER INTEREST IN RELATION TO LARGE LAND HOLDING

Record of persons who wish to be notified of possible transfers

46A Ministers to keep record of persons to notify of possible land transfers

(1) Ministers are to keep a list of the contact details of persons who wish to be notified under section 46D(2)(b) about any possible transfer of land to which section 46K applies in a particular area.

(2) A person’s details are to be added to, changed on, and removed from, the list at the person’s request.

- (3) The reference in subsection (2) to a person's details includes the specification of the area in relation to which the person wishes to be notified of possible transfers of land.

Prohibitions on transfer to extend opportunity for registering interest

46B Prohibition on transfer to allow time for interest to be registered

- (1) The owner of land to which section 46K applies, and any creditor in a standard security having a right to sell the land, is prohibited from—
- (a) transferring the land, or
 - (b) taking any action with a view to a transfer of the land,
- until Ministers give notice under section 46E that the prohibition under this section is lifted.
- (2) A notice under section 46E lifts the prohibition under subsection (1) until—
- (a) the land is transferred, or
 - (b) if the land is not transferred within the period of 2 years beginning with the day that the notice is sent, the expiry of that period.

46C Request by owner, or creditor, to lift prohibition under section 46B

- (1) An owner of land, or a creditor in a standard security with the right to sell land, may make a request to Ministers to lift the prohibition under section 46B(1) so that the land can be transferred.
- (2) A request under subsection (1) is to be made by notice in the prescribed manner.

46D Procedure following receipt of notice under section 46C or 48

- (1) Having received notification under section 46C or 48 of an intention to transfer land to which section 46K applies, Ministers are to publicise—
- (a) that the owner or, as the case may be, the creditor intends to transfer the land, and
 - (b) how a community body can register an interest in some or all of the land under Chapter 2.
- (2) In order to comply with their duty under subsection (1), Ministers must—
- (a) arrange for prescribed information about the possible transfer of the land to be made publicly available on a website,
 - (b) send prescribed information about the possible transfer of the land to every—
 - (i) person whose contact details they hold on the list kept under section 46A so that the person can be notified about any possible transfer of land in an area that (wholly or partly) subsumes or is subsumed by the area of the land,
 - (ii) community council whose area includes the land,

(iii) local authority whose area includes the land,

(iv) National Park authority whose area includes the land.

(3) In this section, “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

5 **46E Notice that prohibition under section 46B is lifted**

10 (1) Ministers are to give notice to a person who notified them under section 46C or 48 of an intention to transfer land that the prohibition on transferring the land under section 46B(1) is lifted once the period of 30 days beginning with the day that Ministers fulfilled their duty under section 46D to publicise the possible transfer of the land has expired.

 (2) If, when that period expires, Ministers are considering whether to impose a prohibition on the transfer of the land under section 46F(1), they are not to give notice under subsection (1) until—

15 (a) they have decided that they are not required to impose such a prohibition, or

 (b) they have imposed such a prohibition.

46F Further prohibition on transfer to allow for invited application to register an interest

20 (1) In the circumstances mentioned in subsection (3), Ministers are to prohibit the owner of land, and any creditor in a standard security over an interest in the land, from—

 (a) transferring the land, or

 (b) taking any action with a view to a transfer of the land,

 until the expiry of the period mentioned in subsection (2)(b).

25 (2) A prohibition on a person under subsection (1)—

 (a) is imposed when the person receives notice from Ministers intimating that it is imposed, and

 (b) expires at the end of the period of 40 days beginning with the day it is imposed.

30 (3) The circumstances referred to in subsection (1) are that—

 (a) Ministers have publicised the possible transfer of the land, or a larger area of land of which it forms part, in accordance with section 46D,

 (b) a person has submitted to Ministers a note, containing prescribed information, expressing an intention on the part of the person, or another person, to register a community interest in the land (“note of intention to register”),

35 (c) Ministers receive the note of intention to register within the period of 30 days beginning with the day that they sent information about the possible transfer in accordance with section 46D(2)(b),

(d) Ministers are satisfied that—

- (i) before any prohibition they impose under subsection (1) in respect of the land would have expired, it is likely that an application to register a community interest in the land would be made by the person on the part of whom the note of intention to register expresses an intention to register a community interest, and
- (ii) there is a reasonable prospect of that application resulting in a community interest in the land being registered.

(4) For the purpose of subsection (3)—

- (a) the person on the part of whom a note of intention to register expresses an intention to register a community interest in land need not be a legal person at the time the note is submitted,
- (b) where Ministers sent the information mentioned in subsection (3)(c) on different days, the reference to the information being sent is to its being sent on the last of those days.

46G Invitation to apply to register an interest

(1) Where, following receipt of a note of intention to register, Ministers impose a prohibition under section 46F(1), they must also send a notice to the person who submitted the note of intention to register that—

- (a) invites the person said in the note to have an intention to register a community interest in land to make an application under section 37 in relation to the land, and
- (b) explains that if the person makes the application before the expiry of the period of the prohibition, the application will be considered in accordance with section 39ZA.

(2) In this section, “note of intention to register” has the meaning given by section 46F(3)(b).

46H Effect of, and exceptions to, prohibition of transfer under section 46B or 46F

(1) A transfer of land is of no effect if it is in breach of—

- (a) section 46B(1), or
- (b) a prohibition imposed under section 46F(1).

(2) Section 46B(1) and a prohibition imposed under section 46F(1) do not apply in relation to—

- (a) excluded land within the meaning of section 33(1), or
- (b) a transfer to which subsection (1) of section 40 does not apply by virtue of subsection (4) of that section.

(3) Action is taken with a view to a transfer of land for the purposes of sections 46B and 46F if it would be regarded as having been taken for the purpose of section 40.

46I Lifting prohibitions in exceptional circumstances

(1) Ministers may disapply the prohibition under section 46B(1), or a prohibition imposed under section 46F(1), in relation to any area of land if they are satisfied that—

5 (a) the owner of the land (or any part of it) wants to transfer it in order to alleviate, or avoid, financial hardship, and

(b) having to wait for the prohibition to be lifted in accordance with section 46E or, as the case may be, 46F(2)(b) is likely to cause, or worsen, financial hardship for the owner.

10 (2) Ministers may disapply a prohibition in relation to land by virtue of subsection (1) only if a request to do so is made—

(a) by the owner of the land, and

(b) in the prescribed manner.

15 (3) The disapplication of a prohibition in relation to land by virtue of subsection (1)—

(a) begins when the owner of the land receives a notice from Ministers intimating that it is disapplied, and

(b) ends on a date specified in the notice.

Anti-avoidance

20 **46J Requirement to explain exemption to prohibition in transfer deed**

Where land is being transferred and that would be in breach of a prohibition but for section 46H(2)(b), the transferor is to incorporate in the deed giving effect to the transfer a declaration—

25 (a) specifying which provision of subsection (4) of section 40 operates so as to make the transfer one to which subsection (1) of that section does not apply, and

30 (b) where the provision so specified is paragraph (a), (e) or (h) of that subsection, stating that the transfer does not form part of a scheme or arrangement, and is not one of a series, the main purpose or effect, or one of the main purposes or effects, of which is the avoidance of the requirements or consequences of this Part of this Act.

Land affected by the prohibitions

46K Land affected by the prohibitions

(1) This section applies to land that is, or forms part of, a large holding of land.

35 (2) In subsection (1), a “large holding of land” means—

(a) a single holding, or

(b) a composite holding,

that exceeds 1,000 hectares in area.

- (3) For the purposes of this section—
- (a) a single holding is the whole of a contiguous area of land in the ownership of one person or set of persons,
 - (b) a single holding (“holding A”) forms part of a composite holding with another (“holding B”) if the conditions in subsection (4) are met,
 - (c) a composite holding may consist of any number of single holdings.
- (4) The conditions referred to in subsection (3)(b) are that—
- (a) a boundary of holding A is (wholly or partly) contiguous with a boundary of holding B, and
 - (b) the owner of holding A is either—
 - (i) also the owner of another single holding that forms part of a composite holding of which holding B forms part, or
 - (ii) connected to the owner of another single holding that forms part of a composite holding of which holding B forms part.
- (5) For the purposes of subsection (4)(b)—
- (a) one person is connected to another person if—
 - (i) they are both companies in the same group,
 - (ii) one has a controlling interest in the other, or
 - (iii) a person holds a controlling interest in them both,
 - (b) companies are in the same group if they are, or are included in a number of, companies which, by virtue of section 170 of the Taxation of Chargeable Gains Act 1992, together form part of a group for the purposes of sections 171 to 181 of that Act,
 - (c) one person (“person A”) has a controlling interest in another (“person B”) if regulations under section 39 of the Land Reform (Scotland) Act 2016 provide that person A is to be treated as having a controlling interest in person B.

Modification of Chapter 2A by regulations

46L Powers to modify Chapter

Ministers may by regulations modify this Chapter so as to change—

- (a) the period specified in section 46F(2)(b),
- (b) the land to which section 46K applies.”.

3 Modifications in connection with section 2

- (1) The Conveyancing and Feudal Reform (Scotland) Act 1970 is modified by subsection (2).
- (2) In section 25 (exercise of power of sale) for the words from “sections” to “provisions” substitute “the prohibitions on transferring land provided for in the Land Reform (Scotland) Act 2003”.

- (3) The Land Reform (Scotland) Act 2003 is modified by subsections (4) to (6).
- (4) In section 37 (registration of interest in land), in subsection (19), after “39(2)(b)” insert “or 39ZA(2)(b)”.
- (5) In section 63 (compensation), for subsection (1)(c) substitute—
- 5 “(c) attributable to—
- (i) the prohibition under section 46B; or
- (ii) a prohibition imposed under section 37(5)(e) or 46F;”.
- (6) In section 98 (general and supplementary provisions), in subsection (5), after “38(2B),” insert “46L,”.
- 10 (7) The Land Registration etc. (Scotland) Act 2012 is modified by subsection (8).
- (8) In section 42 (notification to Scottish Ministers of certain applications)—
- (a) in subsection (1)—
- (i) the word “or” immediately preceding paragraph (b) is repealed,
- (ii) after paragraph (b) insert—
- 15 “(c) under section 46B of that Act (prohibition to allow time to register community interest in large land holding), or
- (d) under section 46F(1) of that Act (prohibition to allow time for invited application to register community interest).”.
- (b) in subsection (2), after “43(2)” insert “or 46J”.

20 **4 Lotting of large land holding**

- (1) The Land Reform (Scotland) Act 2003 is modified as follows.
- (2) After Part 2 insert—

“PART 2A

LOTTING OF LARGE LAND HOLDINGS

CHAPTER 1

PROHIBITIONS ON TRANSFER

The prohibitions

67C Prohibition on transfer without lotting decision

30 A purported transfer of land by the owner, or a creditor in a standard security having a right to sell the land, is of no effect if—

- (a) section 67G applies to the land,
- (b) the purported transfer is not an exempt transfer, and
- (c) no lotting decision is in effect in relation to the land.

67D Prohibition on transfer contrary to lotting decision

- (1) A purported transfer of land by the owner, or a creditor in a standard security having a right to sell the land, is of no effect if—
- (a) a lotting decision is in effect in relation to the land which states that the land (or any part of it) may only be transferred in lots specified in the decision,
 - (b) the purported transfer is not an exempt transfer, and
 - (c) either—
 - (i) the purported transfer is of an area that does not correspond to a lot specified in the lotting decision, or
 - (ii) the purported transfer would result in the same person or connected persons owning more than one of the lots specified in the lotting decision.
- (2) But subsection (1) does not prevent the transfer of a part of a lot specified in a lotting decision if Ministers give their approval to the transfer.

Anti-avoidance

67E Requirement to explain exemption to prohibitions in transfer deed

- (1) A deed giving effect to a transfer of land is to include a declaration in accordance with this section where the transfer would be of no effect by virtue of section 67C or 67D but for its being an exempt transfer.
- (2) A declaration in accordance with this section is one that—
- (a) specifies which provision of subsection (4) of section 40 operates so as to make the transfer one to which section 67C or, as the case may be, 67D does not apply, and
 - (b) where the provision so specified is paragraph (a), (e) or (h) of that subsection, stating that the transfer does not form part of a scheme or arrangement, and is not one of a series, the main purpose or effect, or one or the main purposes or effects, of which is the avoidance of the requirements or consequences of this Part.

Key concepts

67F Lotting decision

- (1) In this Part—
- (a) a reference to a lotting decision is to a decision by Ministers under section 67M, 67N or 67R about whether land is to be transferred in lots,
 - (b) a reference to the land to which a lotting decision relates refers not only to the whole area of land that the decision states need not be lotted or, as the case may be, may only be transferred in lots, but also to any part of that area.
- (2) A lotting decision stating that land need not be lotted comes into effect on the day after the day it is made.

- (3) A lotting decision stating that land may only be transferred in lots comes into effect—
- (a) where no appeal against it is made under section 67U, on the day after the expiry of the period specified in section 67U(3),
 - (b) where an appeal against it is made under section 67U, on the day the appeal is finally determined or withdrawn.
- (4) A lotting decision ceases to have effect in relation to an area of land when any of the following occurs—
- (a) ownership of the area is transferred to a person who is not connected to the person transferring it,
 - (b) the applicable period expires,
 - (c) the decision is withdrawn under section 67P(2)(a),
 - (d) the decision is quashed following an appeal under section 67U.
- (5) In subsection (4), “the applicable period” means a period beginning with the lotting decision coming into effect and ending—
- (a) in the case of a lotting decision under section 67M, 1 year later,
 - (b) in the case of a lotting decision under section 67N or 67R, 5 years later.

67G Land affected by section 67C prohibition

- (1) This section applies to land to which subsection (2) or (3) applies.
- (2) This subsection applies to land that exceeds 1,000 hectares in area.
- (3) This subsection applies to land if—
- (a) it exceeds 50 hectares in area,
 - (b) it forms part of a large holding of land,
 - (c) notice of intention to transfer another part, or parts, of the large holding has been given, and
 - (d) the total area of the following exceeds 1,000 hectares—
 - (i) the area of the land in question, and
 - (ii) the area of the other part, or parts, of the large holding in respect of which notice of intention to transfer has been given, disregarding any area in respect of which missives have concluded since notice of intention to transfer the area (or an area of which it forms part) was given.
- (4) In this section, “notice of intention to transfer” means a notice under section 46C or 48.

67H Large holding of land

- (1) In section 67G(3), a “large holding of land” means—
- (a) a single holding, or

(b) a composite holding,
 that exceeds 1,000 hectares in area.

(2) For the purposes of this section—

(a) a single holding is the whole of a contiguous area of land in the ownership of one person or set of persons,

(b) a single holding (“holding A”) forms part of a composite holding with another (“holding B”) if the conditions in subsection (5) are met,

(c) a composite holding may consist of any number of single holdings.

(3) The conditions referred to in subsection (4)(b) are that—

(a) a boundary of holding A is (wholly or partly) contiguous with a boundary of holding B, and

(b) the owner of holding A is either—

(i) also the owner of another single holding that forms part of a composite holding of which holding B forms part, or

(ii) connected to the owner of another single holding that forms part of a composite holding of which holding B forms part.

67I Connected persons

(1) For the purposes of sections 67D(1)(c), 67F(4) and 67H(5)(b) one person is connected to another person if—

(a) they are both companies in the same group,

(b) one has a controlling interest in the other, or

(c) a person holds a controlling interest in them both.

(2) For the purposes of this section—

(a) companies are in the same group if they are, or are included in a number of, companies which, by virtue of section 170 of the Taxation of Chargeable Gains Act 1992, together form part of a group for the purposes of sections 171 to 181 of that Act,

(b) one person (“person A”) has a controlling interest in another (“person B”) if regulations under section 39 of the Land Reform (Scotland) Act 2016 provide that person A is to be treated as having a controlling interest in person B.

67J Exempt transfer

A transfer of a kind mentioned in section 40(4) is an exempt transfer for the purposes of sections 67C and 67D.

CHAPTER 2

PROCESS FOR MAKING LOTTING DECISION

67K Ministers' duty to make lotting decision

(1) Ministers are to make a lotting decision in respect of land under section 67M or 67N where—

- (a) they receive a valid application asking them to make one,
- (b) a lotting decision in respect of the land is quashed following an appeal under section 67U.

(2) For the purposes of this section, an application is valid if—

- (a) it is made by—
 - (i) the owner of the land in respect of which the application asks for a lotting decision,
 - (ii) the owner of part of that land where it forms part of a composite holding for the purposes of section 67H, or
 - (iii) a creditor in a standard security having a right to sell the land in respect of which the application asks for a lotting decision,
- (b) it is made in the prescribed manner, and
- (c) it does not ask for a lotting decision to be made in respect of land that is (in whole or in part) land in respect of which—
 - (i) a lotting decision is in effect, or
 - (ii) another application asking for a lotting decision is being considered.

67L Request for Ministers not to make lotting decision

(1) Ministers' duty to make a lotting decision in respect of land under section 67K ceases to apply if they receive a valid request asking them not to make a lotting decision in respect of the land.

(2) If, when Ministers cease to be required to make a lotting decision in respect of land by virtue of subsection (1), they had requested but not yet received a report in relation to the land under section 67O, they are to instruct the Commissioner to stop preparing it.

(3) For the purposes of this section, a request asking Ministers not to make a lotting decision is valid if—

- (a) it is made by—
 - (i) the owner of the land in respect of which the application asks for a lotting decision,
 - (ii) the owner of part of that land where it forms part of a composite holding for the purposes of section 67H, or
 - (iii) a creditor in a standard security having a right to sell the land in respect of which the application asks for a lotting decision, and
- (b) it is made in the prescribed manner.

67M Expedited lotting decision where owner facing hardship

- (1) Ministers may make a lotting decision under this section stating that land need not be transferred in lots if they are satisfied that—
- 5 (a) the owner of the land (or any part of it) wants to transfer it in order to alleviate, or avoid, financial hardship, and
- (b) having to wait for a lotting decision under section 67N is likely to cause, or worsen, financial hardship for the owner.
- (2) A lotting decision may be made under this section only if a valid request to consider doing so has been made to Ministers.
- 10 (3) If, when Ministers make a lotting decision in respect of land under this section, they had requested but not yet received a report in relation to the land under section 67O, they are to instruct the Commissioner to stop preparing it.
- (4) For the purposes of this section, a request to consider making a lotting decision under this section is valid if—
- 15 (a) it is made by the owner, and
- (b) it is made in the prescribed manner.

67N Ministerial lotting decision

- (1) Ministers may make a lotting decision under this section stating that land may only be transferred in lots only if they are satisfied that ownership of the land being transferred in accordance with the decision would be more likely to lead to its being used (in whole or in part) in ways that might make a community more sustainable than would be the case if all of the land were transferred to the same person.
- 20 (2) A lotting decision under this section stating that land may only be transferred in lots must specify those lots.
- 25 (3) If Ministers decide not to make a lotting decision stating that land may only be transferred in lots, they must make a lotting decision under this section stating that the land need not be transferred in lots.
- (4) Ministers may not make any lotting decision in respect of land under this section without requesting, and taking into account, a report under section 67O in relation to the land.
- 30 (5) In considering for the purposes of this section the effect that a decision stating that land may only be transferred in lots might have on a community, Ministers must have particular regard to—
- 35 (a) the frequency with which land in the community's vicinity becomes available for purchase on the open market, and
- (b) the extent to which ownership of land in the community's vicinity is concentrated.

67O Report by Land and Communities Commissioner

- (1) The Land and Communities Commissioner must, when requested to do so by Ministers, prepare and provide them with a report to inform their making of a lotting decision in respect of land under section 67N.
- (2) The Commissioner is to prepare the report in accordance with any instructions given by Ministers.
- (3) As well as to Ministers, the Commissioner must send a copy of a report prepared under this section to—
- (a) the person who applied for the lotting decision in connection with which the report is prepared, or
 - (b) in a case where the report is prepared in connection with a lotting decision that is to be made because a previous lotting decision was quashed, the person who applied for the previous decision.
- (4) In this section, “the Land and Communities Commissioner” means the person appointed to that office under section 10(1) of the Land Reform (Scotland) Act 2016.

CHAPTER 3

REVIEW OF LOTTING DECISION

67P Ministers’ duty to review lotting decision

- (1) Ministers are to review a lotting decision that is in effect in relation to land where they receive a valid application asking them to do so.
- (2) Following a review, Ministers—
- (a) must either—
 - (i) confirm the lotting decision, or
 - (ii) withdraw the lotting decision and make a new one under section 67R, and
 - (b) may offer to buy, in accordance with section 67S and any regulations made under it, one or more of the lots specified in the lotting decision.
- (3) For the purposes of this section, an application is valid if—
- (a) it is made by the owner of, or a creditor in a standard security having a right to sell, land to which the lotting decision relates,
 - (b) it is made in the prescribed manner, and
 - (c) it is made—
 - (i) in the case of the first application to ask for a review of the lotting decision, more than one year after the decision was made, or
 - (ii) in any other case, more than one year after Ministers received the last application to review the lotting decision.

67Q Request for Ministers to stop review

- (1) Ministers' duty to review a lotting decision in respect of land under section 67P ceases to apply if they receive a valid request asking them to stop the review.
- 5 (2) For the purposes of this section, a request asking Ministers to stop reviewing a lotting decision is valid if—
- (a) it is made by the owner of, or a creditor in a standard security having a right to sell, the land to which the lotting decision relates, and
 - (b) it is made in the prescribed manner.

67R Replacement lotting decision following review

- 10 (1) A new lotting decision under this section is to relate to the land to which the original lotting decision relates at the time the new decision is made.
- (2) The original lotting decision is to be treated as withdrawn on the day that the new decision comes into effect.
- 15 (3) In subsections (1) and (2), “the original lotting decision” means the decision that is the subject of the review following which the decision under this section is made.
- (4) A lotting decision under this section may state either that land—
- (a) may only be transferred in lots, or
 - (b) need not be transferred in lots.
- (5) Subsections (1) and (5) of section 67N apply to the making of a lotting decision under this section as they do to the making of a lotting decision under that section.
- 20 (6) A lotting decision under this section stating that land may only be transferred in lots must specify those lots.
- 25 (7) Ministers may not make a lotting decision under this section without having sought advice from a person who appears to them to be suitably qualified, independent and to have knowledge and experience of the transfer of land of a kind which is similar to the land to which the lotting decision would relate.

67S Offer to buy following review

- 30 (1) Ministers may offer to buy land under section 67P(2)(b) following a review of a lotting decision only if they are satisfied that it is likely that the fact that the land has not been transferred since the lotting decision was made is attributable to the land being less commercially attractive than it would have been had the lotting decision not prevented its being transferred along with other land.
- 35 (2) If Ministers offer to buy land under section 67P(2)(b) it may only be at the price determined to be appropriate—
- (a) by the appointed valuer, or

(b) by the Lands Tribunal on an appeal against the appointed valuer's determination of the appropriate price by a person to whom Ministers made an offer at that price.

5 (3) An appeal under subsection (2)(b) may not be made after the expiry of the period of 21 days beginning with the day after the day on which Ministers made the offer to buy at the price determined by the appointed valuer.

(4) If, in an appeal under subsection (2)(b), the Tribunal determines a higher appropriate price than the appointed valuer did, Ministers must make another offer to buy at the price determined by the Tribunal.

10 (5) In this section, “the appointed valuer” means a person appointed by Ministers who appears to them to be suitably qualified, independent and to have knowledge and experience of valuing land of a kind that is similar to the land in respect of which the offer would be made.

15 (6) Ministers may by regulations make further provision about buying land under section 67P(2)(b), including about how land is to be valued for the purpose of subsection (2).

67T Specific request that Ministers consider making offer to buy

20 (1) During a review of a lotting decision, a request to Ministers to consider offering to buy land to which the lotting decision relates may be made in a prescribed manner by the owner of the land or a creditor in a standard security with a right to sell the land.

(2) Having received such a request in relation to land, Ministers must—

(a) decide whether they are satisfied about the matter mentioned in section 67S(1) in relation to the land, and

25 (b) if they decide that they are not, give reasons for that decision in writing to the person who made the request.

(3) A person to whom Ministers give reasons for a decision in accordance with subsection (2) may appeal to the Lands Tribunal against the decision.

30 (4) An appeal under subsection (3) may not be made after the expiry of the period of 21 days beginning with the day after the day on which the person making it is given the Ministers' reasons for the decision in question.

35 (5) If, in an appeal under subsection (3), the Tribunal determines that Ministers are entitled to be satisfied about the matter mentioned in section 67S(1) in relation to an area of land, Ministers are deemed to be satisfied about the matter and (on that basis) must consider making an offer to buy the land under section 67P(2)(b).

CHAPTER 4

APPEAL AGAINST LOTTING DECISION

67U Appeal against decision that land may only be transferred in lots

- 5 (1) The owner of land or a creditor in a standard security with a right to sell land may appeal to the Court of Session against a lotting decision stating that the land (or land of which it forms part) may only be transferred in lots.
- (2) An appeal under this section may be made on the ground that the lotting decision—
- 10 (a) is based on an error of fact,
 (b) is based on an error of law, or
 (c) is unreasonable.
- (3) An appeal under this section may not be made after the expiry of the period of 28 days beginning with the day after the day on which the lotting decision was made.
- 15 (4) In an appeal under this section, the Court may—
- (a) uphold the lotting decision, or
 (b) quash the lotting decision (in which event Ministers are to make another in accordance with section 67K).

CHAPTER 5

COMPENSATION

67V Compensation

- 20 (1) An owner of land or a creditor in a standard security with a right to sell land is entitled to compensation from Ministers for loss or expense that is—
- 25 (a) incurred in complying with the procedural requirements of this Part in connection with the land,
 (b) attributable to a potential transfer of the land being prevented by section 67C, or
 (c) attributable to a lotting decision stating that the land may only be transferred in lots.
- 30 (2) The amount of compensation payable under this section to fully compensate a person for loss or expense of a kind mentioned in subsection (1) is to be determined by—
- 35 (a) Ministers, or
 (b) the Lands Tribunal on an appeal against Ministers' determination by the person seeking compensation.
- (3) An appeal under subsection (2)(b) against a determination by Ministers must be made before the expiry of the period of 21 days beginning with the day that the appellant receives Ministers' determination.

- 5
- (4) Ministers are by regulations to make further provision about compensation under this section, including about—
- (a) how claims for compensation to them are to be made, and
 - (b) how the amount of compensation payable is to be determined by them or on their behalf.

CHAPTER 6

FURTHER PROVISION FOR PART 2A

67W Notice of lotting decisions

10 Having made a lotting decision, Ministers must give a copy of it to the owner of the land to which it relates and any creditor in a standard security over an interest in the land.

67X Construction of references to creditor with right to sell

A reference in this Part to a creditor in a standard security with a right to sell land is to be construed in accordance with section 67(3).

67Y Powers to modify Part

15 Ministers may by regulations modify this Part so as to change—

- 20
- (a) what constitutes an exempt transfer for the purposes of sections 67C and 67D,
 - (b) the land to which section 67G applies,
 - (c) the duration of “the applicable period” as defined by section 67F(5),
 - (d) the period specified in section 67P(3)(c).”.

5 Modifications in connection with section 4

- 25
- (1) The Land Reform (Scotland) Act 2003 is modified as follows.
 - (2) In section 98 (general and supplementary provisions)—
 - (a) in subsection (5), before “71(A1)(b)” insert “67S(6), 67Y,”,
 - (b) in subsection (5A), after “51(1)(b),” insert “67N, 67R,”.

6 Establishment of the Land and Communities Commissioner

- 30
- (1) The Land Reform (Scotland) Act 2016 is modified as follows.
 - (2) In section 4 (the Scottish Land Commission)—
 - (a) in subsection (4)—
 - (i) the word “and” immediately preceding paragraph (b) is repealed,
 - (ii) after paragraph (b) insert “, and
 - (c) the Land and Communities Commissioner.”,

(b) after subsection (8) insert—

“(9) The Land and Communities Commissioner has the functions conferred by section 38A.”

(3) In section 6 (functions of the Commission), for “and Tenant Farming Commissioner” substitute “, Tenant Farming Commissioner and Land and Communities Commissioner”.

(4) In section 7 (general powers of the Commission), after subsection (1)(a)(iii) insert—

“(iv) the functions of the Land and Communities Commissioner.”

(5) In section 8 (the Commission’s strategic plan)—

(a) in subsection (1), for “and the Tenant Farming Commissioner” substitute “, the Tenant Farming Commissioner and the Land and Communities Commissioner”,

(b) in subsection (2)—

(i) after paragraph (a)(iii) insert—

“(iv) the Land and Communities Commissioner.”,

(ii) after paragraph (b)(iii) insert—

“(iv) the Land and Communities Commissioner.”

(6) In section 11 (eligibility for appointment), after subsection (3) insert—

“(3A) In appointing the Land and Communities Commissioner, the Scottish Ministers must ensure that the person appointed has expertise or experience in—

(a) land management, and

(b) community empowerment.”

(7) In section 12 (disqualification from membership)—

(a) after subsection (2) insert—

“(2A) A person may not be appointed as the Land and Communities Commissioner if that person is or, within the year preceding the date on which the appointment is to take effect, has been the owner of land in relation to which section 67G of the Land Reform (Scotland) Act 2003 applies.”,

(b) after subsection (5) insert—

“(6) A person’s appointment as the Land and Communities Commissioner ceases if, during the person’s period of appointment, subsection (2A) applies to that person.”

(8) In section 17 (committees of the Commission)—

(a) in subsection (1), after paragraph (c) insert—

“(d) the functions of the Land and Communities Commissioner.”,

(b) in subsection (5)(b), for “or of the Tenant Farming Commissioner” substitute “, of the Tenant Farming Commissioner or of the Land and Communities Commissioner”.

(9) In section 20 (annual report), after subsection (1)(a)(iii) insert—

“(iv) the functions of the Land and Communities Commissioner.”

(10) In section 22 (functions of the Land Commissioners)—

(a) in subsection (3), for paragraph (b) substitute—

“(b) collaborate with—

(i) the Tenant Farming Commissioner,

(ii) the Land and Communities Commissioner.”,

(b) after subsection (4) insert—

“(4A) In so far as the exercise of their functions relates to large landholdings, the Land Commissioners must have regard to the exercise of the Land and Communities Commissioner’s functions conferred by section 38A.”.

(11) After section 38 insert—

“CHAPTER 4

THE LAND AND COMMUNITIES COMMISSIONER

38A Functions of the Land and Communities Commissioner

The functions of the Land and Communities Commissioner are—

- (a) to enforce, in accordance with sections 44E to 44I, obligations imposed by regulations under section 44A,
- (b) to exercise the function conferred on the Commissioner by Part 2A of the Land Reform (Scotland) Act 2003,
- (c) to collaborate with the Land Commissioners in the exercise of their functions to the extent that those functions relate to the functions of the Commissioner,
- (d) to exercise any other functions conferred on the Commissioner by any enactment.

38B Delegation of functions

(1) The Land and Communities Commissioner may authorise the following to exercise such of the Commissioner’s functions, and to such extent, as the Commissioner may determine—

- (a) any committee,
- (b) any employee of the Commission,
- (c) any other person.

(2) Nothing in subsection (1) affects the responsibility of the Land and Communities Commissioner for the exercise of the Commissioner’s functions.

38C Acting Land and Communities Commissioner

(1) The Scottish Ministers may appoint a person to carry out the functions of the Land and Communities Commissioner during a period in which the office is vacant (an “acting Land and Communities Commissioner”).

- (2) A person who is disqualified for appointment as Land and Communities Commissioner is also disqualified for appointment as acting Land and Communities Commissioner.
- (3) A person appointed as acting Land and Communities Commissioner—
- 5 (a) may, by giving notice in writing to the Scottish Ministers, resign at any time,
- (b) may be dismissed by the Scottish Ministers at any time,
- (c) in other respects, holds appointment on such terms and conditions as the Scottish Ministers may determine.
- 10 (4) While holding appointment as acting Land and Communities Commissioner, a person is to be treated as the Commissioner for all purposes other than those of sections 13 and 14.”.

PART 2

LEASING LAND

CHAPTER 1

MODEL LEASE FOR ENVIRONMENTAL PURPOSES

7 Duty to publish model lease

- (1) The Scottish Ministers are to make publicly available a model lease designed for letting land so that it can be used (wholly or partly) for an environmental purpose.
- 20 (2) The Scottish Ministers must fulfil their duty under this section before the end of the period of 2 years beginning with the day that the Bill for this Act receives Royal Assent.
- (3) The Scottish Ministers may by regulations modify subsection (2) to change the date by which their duty under this section is to be fulfilled.
- (4) For the purpose of this section, land is used for an environmental purpose if it is used—
- 25 (a) for sustainable and regenerative agriculture,
- (b) in a way that contributes towards achieving the net-zero emissions target set by section A1 of the Climate Change (Scotland) Act 2009,
- (c) in a way that contributes towards adaptation to climate change,
- (d) in a way that contributes towards increasing or sustaining biodiversity.

CHAPTER 2

SMALL LANDHOLDINGS

8 Small landholdings

The schedule makes provision in respect of certain aspects of the law relating to small landholdings.

9 Extension of Tenant Farming Commissioner’s functions

- (1) The Land Reform (Scotland) Act 2016 is modified as follows.
- (2) In section 11 (eligibility for appointment), in subsection (3), after “agriculture” insert “and rural land tenure”.
- 5 (3) In section 12 (disqualification from membership), in subsection (3)—
- (a) the word “or” immediately preceding paragraph (b) is repealed,
- (b) after paragraph (b) insert “, or
- (c) a tenancy of a small landholding (see the schedule of the Land Reform (Scotland) Act 2025).”.
- 10 (4) In section 22 (functions of the Land Commissioners), in subsection (4), for “and agricultural holdings” substitute “, agricultural holdings and small landholdings”.
- (5) In section 24 (functions of the Tenant Farming Commissioner)—
- (a) in subsection (1)—
- (i) in paragraph (a), after “agricultural holdings” insert “and small landholdings”,
- 15 (ii) in paragraph (d), after “tenants” insert “of agricultural holdings”,
- (iii) in paragraph (f), after “agricultural holdings” insert “or small landholdings”,
- (iv) in paragraph (g), for “and agricultural holdings” substitute “, agricultural holdings and small landholdings”,
- (b) in subsection (2), for “agricultural holdings.” substitute “—
- 20 (a) agricultural holdings,
- (b) small landholdings.”,
- (c) after subsection (5) insert—
- “**(6)** Regulations under subsection (5) which make provision about the functions of the Tenant Farming Commissioner as they relate to agricultural holdings may make equivalent provision about the Commissioner’s functions as they relate to small landholdings.”.
- 25
- (6) In section 27 (Tenant Farming Commissioner: codes of practice)—
- (a) in subsection (1), for “landlords and tenants of agricultural holdings and their agents.” substitute “—
- 30 “(a) landlords and tenants of agricultural holdings,
- (b) landlords and tenants of small landholdings,
- (c) agents of a person mentioned in sub-paragraph (i) or (ii).”,
- (b) in subsection (2)—
- (i) in paragraph (a), after “negotiating” insert “rent”,
- 35 (ii) in paragraph (f), after “waygo” insert “or removal”,
- (iii) after paragraph (g) insert—
- “(ga) creating small landholdings,

- (gb) converting small landholdings to crofts,”
- (iv) in paragraph (j) (inserted by section 19), after “purposes” insert “or for non-cultivation activities”,
- (c) in subsection (9)—
- 5 (i) for “section 61 of the 1991 Act or section 78 of the 2003 Act” substitute “the following provisions”,
- (ii) after “proceedings” insert “—
- (a) section 30 of the Crofters Holdings (Scotland) Act 1886,
- (b) section 61 of the 1991 Act,
- 10 (c) section 78 of the 2003 Act.”.
- (7) In section 28 (Tenant Farming Commissioner: promotion of codes of practice)—
- (a) in paragraph (b), for “landlords and tenants of agricultural holdings and their agents,” substitute “—
- (i) landlords and tenants of agricultural holdings,
- 15 (ii) landlords and tenants of small landholdings,
- (iii) agents of a person mentioned in sub-paragraph (i) or (ii),”
- (b) in paragraph (c), for “landlords and tenants of agricultural holdings and their agents,” substitute “—
- (i) landlords and tenants of agricultural holdings,
- 20 (ii) landlords and tenants of small landholdings,
- (iii) agents of a person mentioned in sub-paragraph (i) or (ii),”
- (c) in paragraph (e), after “agricultural holdings” insert “and small landholdings”.
- (8) The heading of section 36 becomes “Report on operation of agents in relation to agricultural holdings”.
- 25 (9) The heading of section 37 becomes “Recommendations for modern list of improvements to agricultural holdings”.

CHAPTER 3

AGRICULTURAL HOLDINGS

Tenant’s right to buy

- 30 **10 Registration of interest and right to buy**
- (1) The Agricultural Holdings (Scotland) Act 2003 is modified by subsections (2) and (3).
- (2) After section 31 insert—
- “31A Power to modify: registration of tenant’s interest**
- 35 (1) The Scottish Ministers may by regulations make provision for or in connection with the registration by tenants of 1991 Act tenancies of their interests in acquiring the land comprised in their leases.

(2) In particular (but without limit to that generality) regulations under subsection (1) may—

(a) make provision about—

- (i) the manner in which tenants notify their landlord of their interest in acquiring the land comprised in their leases,
- (ii) the procedure by which that interest is (or may be) registered,
- (iii) how applications for registration and entries in the Register may be challenged,
- (iv) the effect of registration,
- (v) the Keeper's functions in respect of registration,
- (vi) the updating or correction of entries in the Register,
- (vii) the consequences of an application for registration, or an entry in the Register, being inaccurate in a material regard,
- (viii) the expiry or cancellation of an entry in the Register,

(b) modify sections 24 to 28, and

(c) if the Scottish Ministers consider it necessary or expedient, make consequential provision which modifies the other provisions in this Part.

(3) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult—

(a) the Keeper, and

(b) such other persons as the Scottish Ministers consider are likely to have an interest in the registration of interests to acquire land.”.

(3) In section 91 (orders and regulations), in subsection (4)(b), after “9C(6),” insert “31A,”.

(4) The Land Reform (Scotland) Act 2016 is modified by subsections (5) and (6).

(5) In section 27(2) (Tenant Farming Commissioner: codes of practice), after paragraph (e) insert—

“(ea) the tenant's right to buy,”.

(6) Section 99 (tenant's right to buy: removal of requirement to register) is repealed.

Resumption

11 Resumption in relation to 1991 Act tenancies

(1) The Agricultural Holdings (Scotland) Act 1991 is modified as follows.

(2) After Part 3 insert—

“PART 3ZA

RESUMPTION

32ZA Resumption: notice, compensation and reversion

(1) This section applies where a landlord is entitled to resume possession of an agricultural holding, or a part of it.

(2) To resume possession of an agricultural holding, or a part of it, the landlord must—

(a) give the tenant written notice of the landlord’s intention to resume possession, and

(b) send a copy of the notice to the Tenant Farming Commissioner.

(3) The notice must—

(a) be in such form and contain such information as may be prescribed,

(b) be given not less than 1 year before the date on which the resumption is to take place, and

(c) specify that date.

(4) Where notice is given under subsection (2) for resumption of possession of part of the holding, the tenant may, within the period of 28 days beginning with (the later of) the date on which—

(a) the notice was given, or

(b) any matter arising from the notice is determined,

terminate the tenancy by giving notice in writing to the landlord.

(5) Where the tenant terminates the tenancy by giving notice under subsection (4), the termination takes effect on the date specified under subsection (3)(c).

(6) In addition to—

(a) the reduction in rent to which the tenant is entitled under section 31(1), and

(b) any claim the tenant may have for compensation under Part 4 or 5 or an additional payment under Part 6 (or under the lease),

the tenant is to be paid an amount determined in accordance with schedule 2A as compensation for the tenant’s interest in the value of the land being resumed.

(7) Where—

(a) possession of part of the land has been resumed under this section for a purpose mentioned in section 29(2)(f) (which specifies certain forms of mineral exploitation) (that provision applying for the purposes of this section as it does for the purposes of that section), and

(b) the land which formed that part has subsequently been made suitable for, and is available for, agricultural use,

that land is, if the conditions in subsection (8) are fulfilled, to be restored to the tenancy.

(8) The conditions are that—

- (a) the tenancy continues in effect with the same landlord and tenant under the lease, and
- (b) any compensation paid to the tenant in consequence of the resumption of possession was calculated on the basis that the land would be restored under subsection (7).

32ZB Withdrawal of notice of resumption

(1) Except where the tenant has given notice terminating the tenancy at the date of resumption of possession under section 32ZA(4), a landlord may withdraw a notice of resumption given in accordance with that section at any time before the date specified in section 32ZA(3)(c).

(2) The landlord must, at the same time as withdrawing the notice of resumption, send a copy of the withdrawal to the Tenant Farming Commissioner.

(3) Where a landlord withdraws a notice of resumption, the tenant is entitled to recover from the landlord any loss or expense reasonably incurred in reliance on the landlord’s notice of resumption.”.

(3) In section 21 (notice to quit and notice of intention to quit) in subsection (1), after “20” insert “, 32ZA(4)”.

(4) After schedule 2 insert—

“SCHEDULE 2A
(introduced by section 32ZA(6))

DETERMINATION OF COMPENSATION FOR VALUE OF RESUMED LAND

Appointment of valuer by Tenant Farming Commissioner

1 (1) This paragraph applies where the Tenant Farming Commissioner receives a copy of a notice of resumption under section 32ZA(2)(b).

(2) The Commissioner must, before the expiry of the period mentioned in sub-paragraph (3), appoint a person, who meets the requirements mentioned in sub-paragraph (4), to—

- (a) carry out the assessment mentioned in paragraph 4(1), and
- (b) calculate the amount to be payable by the landlord to the tenant as compensation for the value of the land being resumed.

(3) The period is—

- (a) the period of 28 days beginning with the date on which the notice is served, or
- (b) such other period as may be prescribed.

(4) The requirements referred to in sub-paragraph (2) are that the person appears to the Commissioner—

- (a) to be independent of the landlord and the tenant, and

(b) to possess qualifications, knowledge and experience suitable for assessing the—

(i) value of agricultural land, both with vacant possession and where subject to agricultural holdings, and

(ii) compensation that may be payable to tenants and landlords of such holdings.

(5) A person appointed under sub-paragraph (2) or, as the case may be, paragraph 2(5)(b) is the “valuer”.

(6) The Tenant Farming Commissioner must give notice in writing to the tenant and the landlord of the name and address of the person appointed under sub-paragraph (2).

Objection to valuer appointed by Tenant Farming Commissioner

(1) This paragraph applies where the tenant or the landlord objects to the person appointed under paragraph 1(2) by the Tenant Farming Commissioner on one or more of the grounds mentioned in sub-paragraph (2).

(2) The grounds are that the person—

(a) is not independent of the landlord or, as the case may be, the tenant, or

(b) does not possess the qualifications, knowledge and experience mentioned in paragraph 1(4)(b).

(3) The tenant or, as the case may be, the landlord may apply to the Land Court to appoint a person as the valuer in place of the person appointed by the Tenant Farming Commissioner.

(4) An application under sub-paragraph (3)—

(a) must—

(i) be made before the expiry of the period of 14 days beginning with the date of the notice under paragraph 1(6), and

(ii) state the ground of objection to the person appointed by the Tenant Farming Commissioner, and

(b) may propose a person to be appointed as the valuer in place of that person.

(5) The Land Court may, on an application under sub-paragraph (3)—

(a) reject the objection, or

(b) appoint a person as the valuer (whether a person proposed in the application or not).

(6) The decision of the Land Court on an application under sub-paragraph (3) is final.

Valuer’s expenses

(1) The landlord is responsible for meeting the expenses incurred by the valuer in carrying out functions under this schedule.

- (2) Where expenses have been met by the Tenant Farming Commissioner in connection with the appointing of a valuer, the Commissioner is entitled to recover them from the landlord.

Assessment of value of land etc.

- 5 4 (1) The valuer is to assess the value of the land being resumed—
- (a) if sold with vacant possession, and
 - (b) if sold with the tenant still in occupation.
- (2) In assessing the value of the land under sub-paragraph (1), the valuer—
- 10 (a) is to have regard to the value that would be likely to be agreed between a reasonable seller and buyer of such land assuming the seller and buyer are, as respects the transaction, willing,
- (b) is to take account—
- 15 (i) of when the landlord would in the normal course of events have been likely to recover vacant possession of the land from the tenant,
 - (ii) of the terms and conditions of any lease, other than the lease of the holding, affecting the land,
- (c) is to take no account of—
- 20 (i) the existence of any person to whom the tenant could assign the lease of the holding under section 10A or to whom the lease could be bequeathed under section 11,
 - (ii) the absence of the period of time during which the land would, on the open market, be likely to be advertised and exposed for sale,
 - 25 (iii) any factor attributable to any use of the land which is or would be unlawful,
 - (iv) any increase in the value of the land resulting from any improvements in relation to which the tenant would be entitled to compensation,
 - 30 (v) any increase, or reduction, in the value of the land resulting from the use of any of the land, or changes to the land, for a purpose that is not one permitted by the lease of the holding,
 - 35 (vi) any reduction in the value of the land resulting from any dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the tenant in relation to which the landlord would be entitled to compensation.
- (3) For the purposes of sub-paragraph (2)(c)(iv)—
- (a) subject to paragraph (b), “improvements” is to be construed by reference to schedule 5, and
 - 40 (b) the continuous adoption by the tenant of a standard of farming more beneficial to the land than the standard or system required by the lease or, in so far as no system of farming is so required, than the system of

farming normally practised on comparable agricultural land in the district, is to be treated as an improvement executed at the tenant's expense.

- 5 (4) The valuer is to calculate, in accordance with paragraph 6, the amount to be payable by the landlord to the tenant as compensation for the value of the land being resumed.
- (5) The Scottish Ministers may by regulations amend sub-paragraphs (2) and (3) so as to—
- 10 (a) add,
- (b) remove,
- (c) vary the description of,
- a matter which the valuer must have regard to, take account of or take no account of in assessing the value of the land under sub-paragraph (1).
- (6) Regulations under subsection (5) are subject to the affirmative procedure.

Valuation: further provision

- 15 5 (1) The valuer is—
- (a) to invite the landlord and the tenant to make written representations about the assessment under paragraph 4(1), and
- (b) to have regard to any such representations.
- (2) The valuer may—
- 20 (a) enter onto land at reasonable times and having given reasonable notice, and
- (b) make any reasonable request of the landlord and tenant (with which they must comply),
- for the purposes of any assessment under paragraph 4(1).
- 25 (3) In the event that the landlord or, as the case may be, tenant does not provide entry to the valuer, respond to a request of the valuer or otherwise seeks to obstruct or delay the valuation, the valuer may—
- (a) apply to the Land Court for an order requiring the relevant party to comply, and
- 30 (b) recover the cost of doing so from the party.
- (4) The valuer is not to be held to be in breach of a requirement of this schedule where such breach arises as a result of the actions of the tenant or the landlord.

Amount payable by landlord to tenant

- 35 6 The amount to be payable by the landlord to the tenant in respect of the value of the land being resumed is to be half of the difference between the value of the land being resumed—
- (a) if sold with vacant possession, and
- (b) if sold with the tenant still in occupation,

(both as assessed under paragraph 4(1) or, as the case may be, 8(3)(a)).

Notice of assessment

- 5 7 (1) The valuer must, before the expiry of the period mentioned in sub-paragraph (2), serve a notice in writing, specifying the matters mentioned in sub-paragraph (3), on—
- (a) the tenant, and
 - (b) the landlord.
- 10 (2) The period is the period of 8 weeks beginning with—
- (a) the date on which the period, within which an application under paragraph 2(3) may be made, expires, or
 - (b) where such an application is made, the date of the Land Court’s decision on it.
- 15 (3) The matters are—
- (a) the value, assessed under paragraph 4(1), of the land being resumed—
 - (i) if sold with vacant possession, and
 - (ii) if sold with the tenant still in occupation,
 - (b) the amount, calculated in accordance with paragraph 6, to be payable by the landlord to the tenant in respect of compensation for the value of the land being resumed.
- 20 (4) The notice must also—
- (a) be dated,
 - (b) state the date of valuation of each of the values and the amount mentioned in sub-paragraph (3), and
 - (c) set out how the valuer arrived at each of those values and that amount.
- 25 (5) The notice may also contain or be accompanied by any other information that the valuer considers appropriate.
- (6) A notice served under sub-paragraph (1) is a “notice of assessment”.
- (7) The valuer must, at the same time as serving a notice of assessment, send a copy of the notice to the Tenant Farming Commissioner.

30 *Appeal to Lands Tribunal against valuer’s assessment*

- 8 (1) The tenant or the landlord may appeal to the Lands Tribunal against a notice of assessment.
- (2) An appeal under this section must—
- (a) state the grounds on which it is being made, and
 - (b) be lodged before the expiry of the period of 21 days beginning with the date the notice of assessment was served.
- 35

- (3) The Lands Tribunal may—
- (a) reassess any value mentioned in paragraph 4(1) (and any factor affecting the value),
 - (b) determine the amount to be payable by the landlord to the tenant in respect of the value of the land being resumed.
- (4) The valuer whose assessment is appealed against may be a witness in the appeal proceedings.
- (5) In the appeal proceedings, in addition to the landlord and the tenant, the following persons are entitled to be heard—
- (a) where the landlord is a creditor in a standard security, the owner of the land,
 - (b) where the landlord is the owner of the land, any creditor in a standard security over the land or any part of it.
- (6) The Lands Tribunal is to give written reasons for its decision on an appeal under this section.
- (7) The decision of the Lands Tribunal in an appeal under this section is final.

Referral of certain matters by Lands Tribunal to Land Court

- 9 Where, in an appeal before the Lands Tribunal under paragraph 8, an issue of law arises which may competently be determined by the Land Court by virtue of this Act or the 2003 Act, the Tribunal is to refer the issue to the Land Court for determination unless the Tribunal considers that it is not appropriate to do so.”.

12 Resumption in respect of limited duration tenancies and repairing tenancies

- (1) The Agricultural Holdings (Scotland) Act 2003 is modified as follows.
- (2) In section 17 (resumption of land by landlord)—
- (a) after subsection (2) insert—

“(2A) The landlord must, at the same time as giving notice to the tenant under subsection (2), send a copy of the notice to the Tenant Farming Commissioner.”,
 - (b) after subsection (4) insert—

“(4A) In addition to—

 - (a) the reduction in rent, and
 - (b) any claim for compensation the tenant may have under this Act (or under the lease) in respect of the resumed land,

the tenant is to be paid an amount determined in accordance with schedule 2 as compensation for the tenant’s interest in the value of the land being resumed.”.

Objection to valuer appointed by Tenant Farming Commissioner

- 2 (1) This paragraph applies where the tenant or the landlord objects to the person appointed under paragraph 1(2) by the Tenant Farming Commissioner on one or more of the grounds mentioned in sub-paragraph (2).
- 5 (2) The grounds are that the person—
- (a) is not independent of the landlord or, as the case may be, the tenant, or
 - (b) does not possess the qualifications, knowledge and experience mentioned in paragraph 1(4)(b).
- 10 (3) The tenant or, as the case may be, the landlord may apply to the Land Court to appoint a person as the valuer in place of the person appointed by the Tenant Farming Commissioner.
- (4) An application under sub-paragraph (3)—
- (a) must—
- 15 (i) be made before the expiry of the period of 14 days beginning with the date of the notice under paragraph 1(6), and
 - (ii) state the ground of objection to the person appointed by the Tenant Farming Commissioner, and
- (b) may propose a person to be appointed as the valuer in place of that person.
- 20 (5) The Land Court may, on an application under sub-paragraph (3)—
- (a) reject the objection, or
 - (b) appoint a person as the valuer (whether a person proposed in the application or not).
- 25 (6) The decision of the Land Court on an application under sub-paragraph (3) is final.

Valuer's expenses

- 3 (1) The landlord is responsible for meeting the expenses incurred by the valuer in carrying out functions under this schedule.
- 30 (2) Where expenses have been met by the Tenant Farming Commissioner in connection with the appointing of a valuer, the Commissioner is entitled to recover them from the landlord.

Assessment of value of land etc.

- 4 (1) The valuer is to assess the value of the land being resumed—
- (a) if sold with vacant possession, and
 - 35 (b) if sold with the tenant still in occupation.

- (2) In assessing the value of the land under sub-paragraph (1), the valuer—
- (a) is to have regard to the value that would be likely to be agreed between a reasonable seller and buyer of such land assuming the seller and buyer are, as respects the transaction, willing,
 - 5 (b) is to take account—
 - (i) of when the landlord would in the normal course of events have been likely to recover vacant possession of the land from the tenant,
 - (ii) of the terms and conditions of any lease, other than the lease of the land comprised in the tenancy, affecting the land,
 - 10 (c) is to take no account of—
 - (i) the existence of any person to whom the tenant could assign the lease under section 7, 7B or, as the case may be, 7D or to whom the lease could be bequeathed under section 21,
 - (ii) the absence of the period of time during which the land would, on the open market, be likely to be advertised and exposed for sale,
 - (iii) any factor attributable to any use of the land which is or would be unlawful,
 - (iv) any increase in the value of the land resulting from any improvements in relation to which the tenant would be entitled to compensation under section 45,
 - (v) any increase, or reduction, in the value of the land resulting from the use of any of the land, or changes to the land, for a purpose that is not one permitted by the lease,
 - 25 (vi) any reduction in the value of the land resulting from any dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the tenant in relation to which the landlord would be entitled to compensation.
- (3) For the purposes of sub-paragraph (2)(c)(iv)—
- 30 (a) subject to paragraph (b), “improvements” is to be construed by reference to schedule 5 of the 1991 Act, and
 - (b) the continuous adoption by the tenant of a standard of farming more beneficial to the land than the standard or system required by the lease or, in so far as no system of farming is so required, than the system of farming normally practised on comparable agricultural land in the district, is to be treated as an improvement executed at the tenant’s expense.
 - 35
- (4) The valuer is to calculate, in accordance with paragraph 6, the amount to be payable by the landlord to the tenant as compensation for the value of the land being resumed.
- 40 (5) The Scottish Ministers may by regulations amend sub-paragraphs (2) and (3) so as to—
- (a) add,
 - (b) remove,

(c) vary the description of,

a matter which the valuer must have regard to, take account of or take no account of in assessing the value of the land under sub-paragraph (1).

Valuation: further provision

- 5 (1) The valuer is—
- (a) to invite the landlord and the tenant to make written representations about the assessment under paragraph 4(1), and
 - (b) to have regard to any such representations.
- (2) The valuer may—
- 10 (a) enter onto land at reasonable times and having given reasonable notice, and
- (b) make any reasonable request of the landlord and tenant (with which they must comply),
- for the purposes of any assessment under paragraph 4(1).
- 15 (3) In the event that the landlord or, as the case may be, tenant does not provide entry to the valuer, respond to a request of the valuer or otherwise seeks to obstruct or delay the valuation, the valuer may—
- (a) apply to the Land Court for an order requiring the relevant party to comply, and
 - (b) recover the cost of doing so from the party.
- 20 (4) The valuer is not to be held to be in breach of a requirement of this schedule where such breach arises as a result of the actions of the tenant or the landlord.

Amount payable by landlord to tenant

- 25 6 The amount to be payable by the landlord to the tenant in respect of the value of the land being resumed is to be half of the difference between the value of the land being resumed—
- (a) if sold with vacant possession, and
 - (b) if sold with the tenant still in occupation,
- (both as assessed under paragraph 4(1) or, as the case may be, 8(3)(a)).

30 *Notice of assessment*

- 7 (1) The valuer must, before the expiry of the period mentioned in sub-paragraph (2), serve a notice in writing, specifying the matters mentioned in sub-paragraph (3), on—
- (a) the tenant, and
 - (b) the landlord.
- 35

- 5
- (2) The period is the period of 8 weeks beginning with—
- (a) the date on which the period, within which an application under paragraph 2(3) may be made, expires, or
 - (b) where such an application is made, the date of the Land Court’s decision on it.
- 10
- (3) The matters are—
- (a) the value, assessed under paragraph 4(1), of the land being resumed—
 - (i) if sold with vacant possession, and
 - (ii) if sold with the tenant still in occupation,
 - (b) the amount, calculated in accordance with paragraph 6, to be payable by the landlord to the tenant in respect of compensation for the value of the land being resumed.
- 15
- (4) The notice must also—
- (a) be dated,
 - (b) state the date of valuation of each of the values and the amount mentioned in sub-paragraph (3), and
 - (c) set out how the valuer arrived at each of those values and that amount.
- 20
- (5) The notice may also contain or be accompanied by any other information that the valuer considers appropriate.
- (6) A notice served under sub-paragraph (1) is a “notice of assessment”.
- (7) The valuer must, at the same time as serving a notice of assessment, send a copy of the notice to the Tenant Farming Commissioner.

Appeal to Lands Tribunal against valuer’s assessment

- 25
- 8 (1) The tenant or the landlord may appeal to the Lands Tribunal against a notice of assessment.
- (2) An appeal under this section must—
- (a) state the grounds on which it is being made, and
 - (b) be lodged before the expiry of the period of 21 days beginning with the date the notice of assessment was served.
- 30
- (3) The Lands Tribunal may—
- (a) reassess any value mentioned in paragraph 4(1) (and any factor affecting the value),
 - (b) determine the amount to be payable by the landlord to the tenant in respect of the value of the land being resumed.
- 35
- (4) The valuer whose assessment is appealed against may be a witness in the appeal proceedings.

- (5) In the appeal proceedings, in addition to the landlord and the tenant, the following persons are entitled to be heard—
- (a) where the landlord is a creditor in a standard security, the owner of the land,
 - (b) where the landlord is the owner of the land, any creditor in a standard security over the land or any part of it.
- (6) The Lands Tribunal is to give written reasons for its decision on an appeal under this section.
- (7) The decision of the Lands Tribunal in an appeal under this section is final.

Referral of certain matters by Lands Tribunal to Land Court

- 9 Where, in an appeal before the Lands Tribunal under paragraph 8, an issue of law arises which may competently be determined by the Land Court by virtue of this Act or the 1991 Act, the Tribunal is to refer the issue to the Land Court for determination unless the Tribunal considers that it is not appropriate to do so.”.

13 Compensation for disturbance on resumption

- (1) The Agricultural Holdings (Scotland) Act 1991 is modified by subsection (2).
- (2) In section 43 (compensation for disturbance)—
- (a) after subsection (1) insert—
- 20 “(1A) Compensation for disturbance is also to be payable by the landlord to the tenant where the landlord resumes possession of the holding, or a part of the holding.”,
- (b) for subsection (3) substitute—
- 25 “(3) Subject to subsection (4) below, the amount of the compensation payable under this section is—
- (a) the amount of the loss or expense directly attributable to the quitting of the holding (or, as the case may be, the land resumed) which is unavoidably incurred by the tenant upon or in connection with the sale or removal of household goods, implements of husbandry, fixtures, farm produce or farm stock on or used in connection with the holding (or, as the case may be, the land resumed),
 - (b) so far as not otherwise recoverable, the amount of any expenses reasonably incurred by the tenant in connection with the development of the holding (or, as the case may be, the land resumed), including, in particular, professional fees paid by the tenant in respect of obtaining planning permission or building warrants,
 - (c) the amount of any expenses reasonably incurred by the tenant in the preparation of the claim for compensation (not being expenses arising from the determination of any question arising under this section).”.

(c) in subsection (4)—

(i) in paragraph (a), after “holding” insert “(or, as the case may be, the amount of rent proportionate to the land resumed)”;

(ii) in paragraph (b)—

(A) after “holding” insert “(or as the case may be, the amount proportionate to the land resumed)”;

(B) the words “the sale of any such goods, implements fixtures, produce or stock aforesaid” become sub-paragraph (i),

(C) after that sub-paragraph insert “, or

(ii) the amount of any expenses incurred in connection with development,

and has given the landlord a reasonable opportunity to value the items mentioned in sub-paragraph (i) or assess the amount of expenses incurred.”;

(D) the words “and has afforded him a reasonable opportunity of making a valuation thereof” are repealed.

(3) The Agricultural Holdings (Scotland) Act 2003 is modified by subsection (4).

(4) In section 52 (compensation for disturbance)—

(a) in subsection (2), paragraph (c) is repealed,

(b) in subsection (4), for “mentioned in subsection (2)(c)” substitute “where the resumption under section 17 is for part of the land”.

Compensation for improvements

14 Compensation for improvements

(1) The Agricultural Holdings (Scotland) Act 1991 is modified by subsections (2) to (9).

(2) In section 33 (improvements), in the definition of “new improvement”, for “specified” substitute “of a kind referred to or specified”.

(3) In section 33A (agreements as to compensation for improvements), in paragraph (a), for “specified in Part II or III” substitute “of a kind referred to in paragraph 3 or specified in Part 3”.

(4) In section 34 (right to compensation for improvements), in subsection (6), for “32” substitute “5(i)”.

(5) In section 37 (consents necessary for compensation for some improvements)—

(a) in subsection (1), in paragraph (c), for “specified in Part I” substitute “of a kind referred to in paragraph 1”;

(b) after that subsection insert—

“(1A) Subsections (1B) to (1G) apply to a new improvement of a kind referred to in paragraph 1 of schedule 5.

(1B) A tenant must—

- (a) give notice to the landlord requesting consent to the proposed improvement in such form as may be prescribed, and
- (b) at the time of giving notice, provide any prescribed information about the improvement.

(1C) If the landlord has not responded to a notice requesting consent under subsection (1B) within the period of 70 days beginning with the day on which the notice is given, the landlord is deemed to have consented to the improvement unconditionally.

(1D) Where a landlord refuses consent, the landlord must provide reasons in writing explaining the basis of the refusal including, in particular, by reference to the matters described in section 39(2A).

(1E) Where—

- (a) the landlord has refused consent to the proposed improvement, or
- (b) the parties have been unable to agree terms for consent within the 70 day period described in subsection (1C),

the tenant may apply to the Land Court for approval to carry out the improvement.

(1F) Subsections (2) to (4) of section 39 apply to an application for approval under subsection (1E) as they apply to an application for approval under section 39(2).

(1G) In the event that parties agree on the terms as to compensation, or otherwise on which the improvement is to be carried out, it is immaterial to the payment of such compensation whether the requirements for notice under this section were complied with.”.

(6) In section 38 (notice required of certain improvements)—

(a) in subsection (1)—

- (i) in paragraph (c), for “specified in Part II” substitute “of a kind referred to in paragraph 3”,
- (ii) in the closing words, after “(3)” insert “and (3A)”,

(b) after subsection (3) insert—

“(3A) Notice is in accordance with this subsection if—

- (a) it is in such form as may be prescribed, and
- (b) it contains (or is accompanied by) any prescribed information about the improvement.”.

(7) In section 39 (compensation for schedule 5, Part II improvements condition on approval of Land Court in certain cases)—

- (a) in subsection (1), for “specified in Part II” substitute “of a kind referred to in paragraph 3”,
- (b) after subsection (2) insert—

“(2A) In deciding whether or not to approve the carrying out of the improvement (or approve the improvement subject to conditions), the Land Court is—

- (a) to consider if the improvement is likely to (either or both)—
- (i) have a positive effect on the efficient management of the holding,
 - (ii) facilitate or enhance sustainable or regenerative agricultural production on the holding, and
- (b) in all the circumstances of the case, to consider whether or not it is reasonable for the improvement to be carried out.

(2B) Part 4 of schedule 5 specifies improvements which, unless the contrary is shown, are presumed to facilitate or enhance sustainable or regenerative agriculture production (but in respect of which consent under section 37 or notice under section 38 may still be required).”.

(8) In section 73 (power of the Secretary of State to vary schedules 5 and 6)—

(a) before subsection (1) insert—

“(A1) Without prejudice to subsection (1), the Scottish Ministers may by regulations modify paragraphs 2, 4, 5, and 6 of schedule 5 to add, amend or remove an improvement.”,

(b) in subsection (2)—

- (i) after “order” in the first place in which it appears, insert “or regulations”,
- (ii) after “takes” insert “or, as the case may be, regulations take”,
- (iii) after “order” in the last place in which it appears, insert “or regulations”,

(c) in subsection (3)—

- (i) after “order” in the first place in which it appears, insert “or regulations”,
- (ii) after “comes” insert “or, as the case may be, regulations come”,
- (iii) after “order” in the last place in which it appears, insert “or regulations”,

(d) after subsection (3) insert—

“(3A) Regulations under this section are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.

(9) For schedule 5 substitute—

“SCHEDULE 5
(introduced by section 33)

NEW IMPROVEMENTS FOR WHICH COMPENSATION MAY BE PAYABLE

PART I

IMPROVEMENTS FOR WHICH CONSENT IS REQUIRED

1 An improvement which makes a change to land or fixed equipment on the holding that—

- (a) means that the land or fixed equipment affected by the change cannot, or is unlikely to, return to its former agricultural use, or

(b) otherwise, has a long term or significant impact on the management of the holding (as a whole).

2 For example, improvements for which consent may be required include—

- (a) irrigating land,
- (b) making or planting osier beds,
- (c) making or planting of short rotation coppice,
- (d) haulage or other work done by the tenant in aid of the carrying out of any improvement made by the landlord for which the tenant is liable to pay increased rent.

PART 2

IMPROVEMENTS FOR WHICH NOTICE IS REQUIRED

3 An improvement which makes a change to land or fixed equipment on the holding that does not have a long term or significant impact on the management of the holding (as a whole).

4 For example, improvements for which prior notice may be required include—

- (a) land drainage,
- (b) the construction of silos,
- (c) making or improving farm access or service roads, bridges and fords,
- (d) making or improving watercourses, ponds or wells,
- (e) works for the application of water power for agricultural or domestic purposes or for the supply of water for such purposes,
- (f) making or removing permanent fences, stone dykes and gates,
- (g) reclaiming waste land,
- (h) making or renewing embankments, sluices and other flood-prevention measures,
- (i) providing stells, fanks, folds, dippers, pens and bughts necessary for the proper conduct of the holding,
- (j) planting or renewing shelterbelts,
- (k) the installation, provision, distribution or storage of electricity, gas, power, heat or light,
- (l) erecting, altering or enlarging buildings or facilities including, in particular, for—
 - (i) closed loop production in a controlled environment including hydroponics, glass houses and vertical farming,
 - (ii) processing agricultural products from the holding or any larger business of which the holding forms part,
 - (iii) the management or storage of slurries or manures,

- (m) making or improving permanent yards, loading banks and stocks,
- (n) erecting hay or sheaf sheds, sheaf or grain drying racks, and implement sheds,
- (o) providing fixed threshing mills, barn machinery and fixed dairying plant,
- 5 (p) provision of means of sewage, waste or pollutant disposal, or provision of means of managing water on land,
- (q) repairing fixed equipment, being equipment reasonably required for the efficient farming of the holding, other than repairs which the tenant is under an obligation to carry out,
- 10 (r) providing means to store silage,
- (s) works to dwellings,
- (t) making gardens,
- (u) planting orchards, fruit bushes, vines and other such plants.

PART 3

IMPROVEMENTS FOR WHICH NO CONSENT OR NOTICE IS REQUIRED

5 The improvements for which no consent or notice is required are—

- (a) protecting trees grown for agricultural purposes against animals including, in particular, fruit trees, shelterbelts and those grown for silvopasture or silvoarable systems,
- 20 (b) improving soil health, structure or condition including, in particular, by—
 - (i) clay burning,
 - (ii) liming (including chalking) land,
 - (iii) marling or claying land,
 - 25 (iv) applying soil improvers, conditioners, digestates, manure or fertiliser, whether organic or inorganic, to the land,
- (c) improving permanent pasture by cultivation and re-seeding,
- (d) control of bracken, whins or broom growing on the holding at the commencement of the tenancy,
- 30 (e) removing tree roots, boulders, stones or other similar obstacles to cultivation from arable land or from permanent grass land,
- (f) forming hedges,
- (g) creating field margins, including uncropped field margins, to provide or improve habitats for wild animals, insects and birds,
- 35 (h) the consumption on the holding of corn (whether produced on the holding or not) or of cake or other feeding stuff not produced on the holding by horses, cattle, sheep, pigs or poultry,

- 5 (i) laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than 2 years prior to the termination of the tenancy, in so far as the value of the temporary pasture on the holding at the time of quitting exceeds the value of the temporary pasture on the holding at the commencement of the tenancy for which the tenant did not pay compensation.

PART 4

IMPROVEMENTS WHICH FACILITATE OR ENHANCE SUSTAINABLE OR REGENERATIVE AGRICULTURAL PRODUCTION

- 10 6 Improvements which are presumed to facilitate or enhance sustainable or regenerative agricultural production include—
- (a) the laying down of permanent pasture,
 - (b) making water-meadows,
 - (c) the warping or weiring of land, or re-wetting of wetlands,
 - 15 (d) creating species-rich pasture,
 - (e) creating silvopasture and silvoarable systems,
 - (f) peatland restoration,
 - (g) conversion of the holding (or a significant part) to a standard of organic farming that is capable of being accredited by a recognised accreditation organisation,
 - 20 (h) the installation of a building or other structure required for the creation or storage of energy—
 - (i) from a renewable source (such as a wind turbine or solar panel), and
 - 25 (ii) which is primarily to be used on the holding.”.

(10) The Land Reform (Scotland) Act 2016 is modified by subsection (11).

(11) In section 27 (Tenant Farming Commissioner: codes of practice), in subsection (2)(b), for “and recording” substitute “, recording and compensating”.

Use of agricultural land: diversification

30 **15 Notice of and objection to diversification**

(1) The Agricultural Holdings (Scotland) Act 2003 is modified as follows.

(2) In section 40 (notice of an objection to diversification)—

(a) in subsection (2), after paragraph (b) insert—

“(ba) any environmental benefit that is intended to be provided in using the land for that purpose;”,

(b) after subsection (3) insert—

“(3A) Where the tenant’s intended use of the land for the non-agricultural purpose is intended to provide an environmental benefit the notice must also specify how that benefit is to be provided.”,

(c) in subsection (4), in the opening words, for “and (3)” substitute “to (3A)”,

(d) in subsection (9)(a)—

(i) in sub-paragraph (ii), for “land for agricultural purposes” substitute “whole of the land comprised in the lease for the purpose of sustainable and regenerative agriculture”,

(ii) in sub-paragraph (iii), after “be” insert “substantially”,

(e) in subsection (11), after paragraph (b) insert “, and

explain why the landlord considers the grounds or, as the case may be, conditions, are reasonable.”,

(f) after subsection (14) insert—

“(15) The Scottish Ministers may by regulations—

(a) modify subsection (2) so as to add or remove a matter which is to be specified in a notice of diversification,

(b) modify subsection (9) so as to add or remove a ground for objection to the notice of diversification.”.

(3) In section 91 (orders and regulations), in subsection (4)(b), after “38O(4),” insert “40(15),”.

16 Tenant extension notice

(1) The Agricultural Holdings (Scotland) Act 2003 is modified as follows.

(2) After section 40 insert—

“40ZA Tenant extension notice

(1) A tenant may give an extension notice to the landlord.

(2) An extension notice—

(a) must—

(i) be given in writing,

(ii) specify the extension period, which is to be a period of 30 days beginning on the day the extension notice is given,

(b) may not be given—

(i) more than once in relation to the same notice of diversification, or

(ii) after the landlord has made an application notice to the Land Court under section 40A(2).

(3) Subsection (4) applies where an extension notice is given—

(a) before the landlord has sent a notice of objection under section 40(11), and

(b) before the expiry of the period mentioned in section 40(12).

(4) Where this subsection applies—

(a) the references in paragraphs (a) and (b) of section 40(12) to a period of 60 days are to be read, in both cases, as if they were a reference to a period of 90 days,

(b) the reference in section 40A(3) to the period of 60 days is to be read as if it were a reference to a period of 90 days.

(5) Where an extension notice is given after the landlord has sent a notice of objection to the tenant under section 40(11), the reference in section 40A(3) to the period of 60 days is to be read as if it were a reference to a period of 90 days.”.

17 Determinations by Land Court

(1) The Agricultural Holdings (Scotland) Act 2003 is modified as follows.

(2) In section 41 (imposition of conditions by Land Court), after subsection (3) insert—

“(4) In deciding whether or not it is reasonable for the landlord to object to a notice of diversification or, as the case may be, to impose conditions, the Land Court is to—

(a) consider if the intended use of the land for the non-agricultural purpose is likely to have a positive effect—

(i) in facilitating or enhancing sustainable or regenerative agricultural production on the whole of the land comprised in the lease,

(ii) on the environment generally, and

(b) if the Land Court considers such positive effects are likely, whether those positive effects should outweigh any negative effects (including, in particular, any negative effects mentioned in sub-paragraphs (i) to (iii) of section 40(9)(a)).”.

18 Compensation arising as a result of diversification

(1) The Agricultural Holdings (Scotland) Act 1991 is modified as follows.

(2) In section 45A(7)(a) (compensation arising as a result of diversification and cropping of trees) for “land is unsuitable for use for agriculture by an incoming tenant” substitute “use of the whole of the land comprised in the holding for the purposes of sustainable and regenerative agriculture by an incoming tenant has been substantially prejudiced”.

19 Tenant Farming Commissioner: codes of practice

(1) The Land Reform (Scotland) Act 2016 is modified as follows.

(2) In section 27(2) (Tenant Farming Commissioner: codes of practice)—

(a) the word “and” immediately preceding paragraph (i) is repealed,

(b) after paragraph (i) insert “, and

(j) the use of land for non-agricultural purposes.”.

Game damage etc.

20 Compensation for damage by game etc.

- (1) The Agricultural Holdings (Scotland) Act 1991 is modified as follows.
- (2) For section 52 (compensation for damage by game) substitute—

“52 Compensation for damage caused by game or game management

- (1) This section applies where neither the tenant of an agricultural holding or any other person with a right in the holding deriving from the tenant has—

- (a) the right to kill and take game, or
- (b) written permission from the landlord to do so.

- (2) The tenant is entitled to be compensated by the landlord where game or game management have caused the tenant to sustain (whether directly or indirectly)—

- (a) damage to crops grown, or seeds sown, for agricultural, or permitted non-agricultural, purposes,
- (b) damage to trees grown for agricultural, or permitted non-agricultural, purposes,
- (c) damage to fixed equipment,
- (d) damage to livestock,
- (e) damage to habitats.

- (3) Compensation is not recoverable under subsection (2) unless—

- (a) notice in writing is given to the landlord in such form and manner as may be prescribed as soon as reasonably practicable after the damage or injury was first observed by the tenant,
- (b) a reasonable opportunity is given to the landlord to inspect the damage—
 - (i) in the case of damage to a growing crop, before work to reap, raise or consume the crop has begun,
 - (ii) in the case of damage to a crop reaped or raised, before work to remove the crop from the land has begun,
 - (iii) in the case of damage to a growing tree, before the tree is cropped or cut for timber,
 - (iv) in the case of damage to a tree cropped or cut, before work to remove the timber or tree from the land has begun,
 - (v) in the case of damage to fixed equipment, before any repairs to the equipment are carried out (unless the tenant has reasonable cause to believe that delaying repairs is likely to cause further damage or injury),
 - (vi) in the case of damage to livestock, before any action in relation to the livestock is carried out (unless subsection (4) applies),
 - (vii) in the case of damage to habitats, before any action is taken to repair the damage to the habitat, and

(c) notice in writing of the claim is given to the landlord in such form and manner as may be prescribed within 6 months of the giving of notice under paragraph (a).

(4) This subsection applies if, in relation to the livestock—

(a) the tenant has reasonable cause to believe that delaying action (including, for example, the destruction of the livestock in an appropriate and humane manner) is likely to cause—

(i) the affected livestock further suffering or injury,

(ii) the further spread of disease, or

(b) any action is required by virtue of any statutory obligation (including, for example, the seizure or destruction of the livestock).

(5) Where the right to kill and take the game is vested in some person other than the landlord, the landlord is entitled to be indemnified by that other person against all claims for compensation under this section.

(6) It is for the Land Court to determine any question which arises as to—

(a) a tenant's entitlement to compensation under subsection (2),

(b) the amount of compensation payable under that subsection, or

(c) the landlord's entitlement to be indemnified under subsection (5).

(7) In this section—

“damage”, in relation to livestock, includes suffering, injury or disease,

“game” means deer, pheasants, partridges and grouse,

“game management” includes the killing and taking of game and any steps taken or not taken by a person in connection with the exercise of a right to kill and take game,

“tree” includes—

(a) fruit trees,

(b) trees forming part of a shelterbelt,

(c) trees grown for silvopasture or silvoarable systems.”.

Introduction of standard procedure for claiming compensation

21 Standard claim procedure

(1) The Agricultural Holdings (Scotland) Act 2003 is modified as follows.

(2) After section 59A insert—

“59B Standard claim procedure

(1) The Scottish Ministers may by regulations apply the standard claim procedure set out in schedule 3 to any relevant type of compensation.

- (2) Without limit to the generality of section 91(2), regulations under subsection (1) may—
- (a) apply the standard claim procedure with such modifications as the Scottish Ministers consider appropriate for the relevant type of compensation,
 - (b) modify any enactment mentioned in subsection (3) to adjust or remove any notification requirement, time limit or other procedural aspect provided for in respect of making or responding to a claim for such compensation,
 - (c) specify any matter which must be taken into account, to which regard is to be had or, as the case may be, which is to be disregarded in assessing the value of the relevant type of compensation,
 - (d) make transitional or transitory provision in respect of ongoing claims for the relevant type of compensation.
- (3) For the purposes of this section, a “relevant type of compensation” is a type of compensation to which a party to a lease of agricultural land is entitled under—
- (a) a provision of the 1991 Act,
 - (b) a provision of this Act,
 - (c) any other enactment which confers a right to compensation under a 1991 Act tenancy, a short limited duration tenancy, a limited duration tenancy, modern limited duration tenancy or a repairing tenancy.
- (4) The Scottish Ministers may by regulations modify the standard claim procedure set out in schedule 3.”.

- (3) In section 91 (orders and regulations), in subsection (4)(b), after “59A,” insert “59B(1) or (4),”.
- (4) After schedule 2 (as inserted by section 12(5) of this Act) insert—

“SCHEDULE 3
(introduced by section 59B)

STANDARD CLAIM PROCEDURE

PART 1

INTERPRETATION

Interpretation

1 In this schedule, unless the context otherwise requires—

“claim” means a claim for a type of compensation to which this procedure applies,

“claimant” means the person making a claim for compensation,

“Commissioner” means the Tenant Farming Commissioner,

“holding” means the land comprised in the lease (or such part of that land as is relevant for the purposes of the claim),

“relevant date” means—

- (a) the date on which the event giving rise to the entitlement to compensation occurs (for example, the date on which the tenancy terminates), or
- (b) such other date as may be specified in the regulations applying the standard claim procedure to the type of compensation,

“respondent” means the person who is (or may be) liable to pay compensation,

“valuer” means a person appointed under paragraph 3(2), 4(2) or 6(5)(b) or, as the case may be, by agreement between the claimant and the respondent.

PART 2

NOTICE OF CLAIM AND APPOINTMENT OF VALUER

Notice of claim

- 2 (1) A claimant must give notification of a claim to the respondent not less than 9 months before the relevant date.
- (2) The notice of claim must—
- (a) specify what type (or types) of compensation is being claimed,
 - (b) describe the holding including, in particular, its name, address and boundaries,
 - (c) provide details of the tenancy including, in particular—
 - (i) the landlord and tenant,
 - (ii) the term date,
 - (iii) the current rent,
 - (iv) the date on which the rent could next be reviewed,
 - (d) if relevant to the claim, include details of—
 - (i) any improvements carried out by the tenant for which compensation is or may be payable by virtue of section 34 of the 1991 Act or, as the case may be, section 45 of this Act, and
 - (ii) any non-agricultural use (see Part 3) permitted under sections 40 to 42 of this Act,
 - (e) nominate a person who appears to the claimant to meet the requirements to be a valuer mentioned in paragraph 5, and
 - (f) contain any other information specified by the regulations which apply the standard claim procedure to the type of compensation being claimed.

(3) A failure by a claimant to give notice to the respondent in accordance with this paragraph does not extinguish the right of the claimant to a relevant type of compensation provided—

- (a) the claimant has a reasonable excuse for the failure, and
- (b) the claimant remedied the failure as soon as reasonably practicable.

Objection to claimant's nominated valuer

(1) If the respondent objects to the person nominated as valuer in the notice of claim, the respondent must, within the period of 14 days beginning with the day on which the respondent is given the notice—

- (a) give the claimant notice of the objection,
- (b) provide a copy of the notice of claim and the notice of objection to the Commissioner, and
- (c) request that the Commissioner appoint a person as valuer under paragraph 4.

(2) Where—

- (a) the claimant is not given a notice of objection under sub-paragraph (1), or
- (b) any other requirement of that sub-paragraph is not complied with,

the claimant may appoint the nominated person as valuer.

(3) Sub-paragraph (2) does not apply where the claimant and the respondent agree to appoint a different person as valuer.

Appointment of valuer by Commissioner

(1) This paragraph applies where the Commissioner receives a request to appoint a valuer.

(2) The Commissioner must, within the period of 28 days beginning with the date on which notice of the request is given, appoint a person, who appears to the Commissioner to meet the requirements mentioned in paragraph 5, to—

- (a) carry out the assessment mentioned in paragraph 8(1), and
- (b) calculate the amount to be payable by the respondent to the claimant as compensation.

(3) The Commissioner must give notice to the claimant and the respondent of the name and address of the person appointed under sub-paragraph (2).

Requirements for a person to be appointed a valuer

The requirements referred to in paragraph 2(2)(e) and 4(2) are that the person—

- (a) is independent of the claimant and the respondent, and

- (b) possesses qualifications, knowledge and experience suitable for assessing the—
- (i) value of agricultural land, both with vacant possession and where subject to agricultural holdings, and
 - (ii) compensation that may be payable to tenants and landlords of such holdings.

Objection to valuer appointed by the Commissioner

- (1) This paragraph applies where the claimant or the respondent objects to the person appointed as valuer by the Commissioner on one or more of the grounds mentioned in sub-paragraph (2).
- (2) The grounds are that the person—
- (a) is not independent of the respondent or, as the case may be, the claimant, or
 - (b) does not possess the qualifications, knowledge and experience mentioned in paragraph 5(b).
- (3) The claimant or, as the case may be, the respondent may apply to the Land Court to appoint a person as the valuer in place of the person appointed by the Commissioner.
- (4) An application under sub-paragraph (3)—
- (a) must—
 - (i) be made before the expiry of the period of 14 days beginning with the date of the notice under paragraph 4(3), and
 - (ii) state the ground of objection to the person appointed by the Commissioner, and
 - (b) may propose a person to be appointed as the valuer in place of that person.
- (5) The Land Court may, on an application under sub-paragraph (3)—
- (a) reject the objection, or
 - (b) appoint a person as the valuer (whether a person proposed in the application or not).
- (6) The decision of the Land Court on an application under sub-paragraph (3) is final.

Valuer's expenses

- Unless otherwise ordered by the Land Court, the claimant and respondent are each liable for half of the valuer's expenses.

PART 3

ASSESSMENT OF VALUE OF CLAIM

Assessment of value of claim

- 8 (1) The valuer is to assess the value of the claim as at the relevant date.
- 5 (2) In carrying out an assessment, the valuer is to take into account, have regard to or, as the case may be, disregard—
- (a) any matter which is relevant to the type of compensation being claimed that is set out in an enactment conferring the right to compensation, and
 - (b) any matter specified in the regulations applying the standard claim procedure to the type of compensation being claimed.
- 10 (3) The valuer is—
- (a) to invite the claimant and the respondent to make written representations about the value of the claim and any relevant matters, and
 - (b) to have regard to any such representations.

15 *Preliminary report on value of claim*

- 9 (1) The valuer must, not less than 5 months before the relevant date—
- (a) prepare a report on the assessment of value of the claim (“the preliminary report”), and
 - (b) send a copy of the preliminary report to the claimant and the respondent.
- 20 (2) The preliminary report must include—
- (a) the valuer’s assessment of the value of the claim,
 - (b) the matters that the valuer took into account, had regard to or, as the case may be, disregarded when assessing the value of the claim,
 - (c) details of how the valuer has arrived at the value of the claim, and
 - 25 (d) details of any part of the assessment which the valuer considers may change between the date of the preliminary report and the payment date and an explanation as to why the valuer considers this may change.
- (3) The report may also contain or be accompanied by any other information that the valuer considers appropriate.

30 *Final report on value of claim*

- 10 (1) The valuer must, not less than 3 months before the relevant date—
- (a) prepare an updated report on the assessment of value of the claim (“the final report”), and
 - (b) send a copy of the final report to the claimant, the respondent and the Commissioner.
- 35 (2) The final report must include—
- (a) the valuer’s assessment of the value of the claim,

- (b) the matters that the valuer took into account, had regard to or, as the case may be, disregarded when assessing the value of the claim,
- (c) details of how the valuer has arrived at the value of the claim, and
- (d) details of any part of the assessment which the valuer has adjusted since the preparation of the preliminary report and an explanation of why that adjustment as been made.
- (3) The report may also contain or be accompanied by any other information that the valuer considers appropriate.

Powers of valuer

- 11 (1) The valuer may, for the purposes of this schedule—
- (a) at reasonable times and having given reasonable notice, enter onto and inspect—
- (i) the holding, and
- (ii) any other land which is owned or occupied by the claimant or respondent and which is relevant to the assessment, and
- (b) make any reasonable request of the claimant and respondent (with which they must comply).
- (2) In the event that the claimant or, as the case may be, respondent does not provide entry to the valuer, respond to a request of the valuer or otherwise seeks to obstruct or delay the valuation, the valuer may—
- (a) apply to the Land Court for an order requiring the relevant party to comply, and
- (b) recover the cost of doing so from the party.
- (3) A valuer is not to be held to be in breach of a requirement of this schedule where such breach arises as a result of the actions of the claimant or the respondent.

PART 4

PAYMENT AND RIGHTS OF APPEAL

Amount and time of payment

- 12 (1) The amount payable by the respondent to the claimant is the assessed value of the claim and any amount payable in respect of interest under section 59C.
- (2) Payment is to be made not later than—
- (a) two months after the relevant date, or
- (b) in a case where there is an appeal to the Lands Tribunal under paragraph 13, such date as may be specified by the Lands Tribunal.
- (3) For the purposes of this paragraph, “the assessed value of the claim” is the value of the claim—
- (a) as assessed by the valuer under paragraph 10, or

- (b) in a case where a matter has been appealed to the Lands Tribunal, the value as determined by the Lands Tribunal (which includes a decision upholding the valuer's assessment).

Appeal to Lands Tribunal against valuer's assessment

- 5 13 (1) The claimant or the respondent may appeal to the Lands Tribunal in respect of anything contained in the final report.
- (2) An appeal under this section must—
- (a) state the grounds on which it is being made, and
- 10 (b) be lodged before the expiry of the period of 21 days beginning with the date the final report was sent.
- (3) The Lands Tribunal may—
- (a) reassess the value mentioned in paragraph 8(1) (and any matter affecting the value), and
- 15 (b) determine the amount to be payable by the respondent to the claimant in respect of the claim.
- (4) The valuer whose assessment is appealed against may be a witness in the appeal proceedings.
- (5) In the appeal proceedings, in addition to the respondent and the claimant, the following persons are entitled to be heard—
- 20 (a) where the landlord is a creditor in a standard security, the owner of the land,
- (b) where the landlord is the owner of the land, any creditor in a standard security over the land or any part of it.
- (6) The Lands Tribunal is to give written reasons for its decision on an appeal under this section.
- 25 (7) The decision of the Lands Tribunal in an appeal under this section is final.

Referral of certain matters by Lands Tribunal to Land Court

- 30 14 Where, in an appeal before the Lands Tribunal under paragraph 13, an issue of law arises which may competently be determined by the Land Court by virtue of the 1991 Act or this Act, the Tribunal is to refer the issue to the Land Court for determination unless the Tribunal considers that it is not appropriate to do so.”.

22 Interest payable on compensation

- 35 (1) The Agricultural Holdings (Scotland) Act 2003 is modified as follows.
- (2) After section 59B (as inserted by section 21 of this Act) insert—

“59C Interest payable on overdue compensation

- (1) This section applies in respect of any amount of a relevant type of compensation which has not been paid by or on the date on which the

compensation is due to be paid (whether that date is specified or determined under the 1991 Act, this Act or otherwise).

- 5
- (2) Interest is payable, at the rate mentioned in subsection (3) on any amount of the compensation which remains unpaid after the due date (calculated on a daily basis over the period from the due date to the date of payment).
- (3) The rate is the rate equivalent to an annual rate of 1.5% above the Bank of England base rate.
- (4) In subsection (3), “Bank of England base rate” means—
- 10
- (a) the percentage rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
- (b) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent percentage rate determined by the Treasury under that section.
- 15
- (5) For the purposes of this section, “relevant type of compensation” has the same meaning as that given in section 59B.”.

Rent review

23 Rent review: 1991 Act tenancies

- 20
- (1) The Agricultural Holdings (Scotland) Act 1991 Act is modified as follows.
- (2) In schedule 1A (rent review) (as inserted by section 101 of the Land Reform (Scotland) Act 2016)—
- (a) in paragraph 7, for sub-paragraph (4) substitute—
- 25
- “(4) In determining the fair rent for the holding, the Land Court must have regard to—
- (a) the productive capacity of the holding,
- (b) the open market rent of any fixed equipment provided by the landlord for a purpose that is not an agricultural purpose,
- 30
- (c) the open market rent of any land forming part of the holding that is used for a purpose that is not an agricultural purpose,
- (d) the rent payable on similar holdings,
- (e) the prevailing economic conditions in the sectors of agriculture relevant to the holding.
- 35
- (5) For the purposes of sub-paragraph (4)(b) and (c), the “open market rent” means the rent at which any fixed equipment or land used for a purpose that is not an agricultural purpose might reasonably be expected to be let on the open market by a willing landlord to a willing tenant.

- (6) For the purpose of sub-paragraph (4)(d), the Land Court is—
- (a) so far as possible, to have regard to information about—
 - (i) the rent previously offered or agreed in respect of the holding or another holding,
 - (ii) the rent fixed by the Land Court for the holding or another holding,
 - (b) to take account of a distortion in the market caused by the lack of available lets only for the purposes of—
 - (i) identifying if the amount of rent offered or agreed for a holding is in excess of what might otherwise be considered the fair rent for the holding, and
 - (ii) discounting the amount paid that is in excess of what might otherwise be considered fair.”,

(b) for paragraph 9 substitute—

“Power to make further provision

- 9 (1) The Scottish Ministers may by regulations make further provision for the purposes of paragraph 7(4)(a) to (e).
- (2) Before making regulations under this paragraph, the Scottish Ministers must consult such persons as they consider appropriate.
- (3) Regulations under this paragraph are subject to the affirmative procedure.”,
- (c) paragraphs 10 to 12 are repealed,
- (d) in paragraph 13, the definition of “surplus residential accommodation” is repealed.

24 Rent review: limited duration tenancies

- (1) The Agricultural Holdings (Scotland) Act 2003 is modified as follows.
- (2) For section 9B (determination of rent) (as inserted by section 102 of the Land Reform (Scotland) Act 2016) substitute—

“9B Determination of rent

- (1) On review, the rent payable is the fair rent for the tenancy taking account of all the circumstances.
- (2) In determining the fair rent for the tenancy, regard is to be had to—
- (a) the productive capacity of the land comprised in the lease,
 - (b) the open market rent of any fixed equipment provided by the landlord for a purpose that is not an agricultural purpose,
 - (c) the open market rent of any land comprised in the lease that is used for a purpose that is not an agricultural purpose,
 - (d) the rent payable for similar tenancies,
 - (e) the prevailing economic conditions in the sectors of agriculture relevant to the land comprised in the lease.

(3) For the purposes of subsection (2)(b) and (c), the “open market rent” means the rent at which any fixed equipment or land used for a purpose that is not an agricultural purpose might reasonably be expected to be let on the open market by a willing landlord to a willing tenant.

(4) For the purpose of subsection (2)(d)—

(a) so far as possible, regard is to be had to information about—

(i) the rent previously offered or agreed in respect of the tenancy or another tenancy,

(ii) the rent fixed by the Land Court for the tenancy or another tenancy,

(b) account is to be taken of a distortion in the market caused by the lack of available lets only for the purposes of—

(i) identifying if the amount of rent offered or agreed for a tenancy is in excess of what might otherwise be considered a fair rent for the tenancy, and

(ii) discounting the amount paid that is in excess of what might otherwise be considered fair.

(5) The rent determined in accordance with this section is to take effect from the rent agreement date.

9BA Power to make further provision

(1) The Scottish Ministers may by regulations make further provision for the purposes of section 9B(2)(a) to (e).

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

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

(3) Section 9C is repealed.

25 Rent review: repairing tenancies

(1) The Agricultural Holdings (Scotland) Act 2003 is modified as follows.

(2) In section 9 (review of rent under limited duration tenancies, modern limited duration tenancies and repairing tenancies) (as amended by section 102 of the Land Reform (Scotland) Act 2016)—

(a) in subsection (1A), at the beginning insert “Except where subsection (1B) applies,”,

(b) after subsection (1A) insert—

“(1B) This subsection applies where a lease constituting a repairing tenancy is within its repairing period.”.

Rules of good husbandry and estate management

26 Rules of good estate management

(1) The Agriculture (Scotland) Act 1948 is modified as follows.

- (2) In schedule 5 (rules of good estate management)—
- (a) in paragraph 1, after “efficient” insert “, sustainable and regenerative”,
 - (b) in paragraph 2—
 - (i) the word “regular” is repealed,
 - (ii) for “eradication” substitute “control”,
 - (iii) the words “so far as is reasonably practicable” are repealed,
 - (iv) after “efficient” insert “, sustainable and regenerative”.

27 Rules of good husbandry

- (1) The Agriculture (Scotland) Act 1948 is modified by subsection (2).
- (2) In schedule 6 (rules of good husbandry)—
- (a) in paragraph 1, after “efficient” insert “, sustainable and regenerative”,
 - (b) in paragraph 2—
 - (i) after paragraph (d) insert—

“(da) the health and welfare of livestock,”,
 - (ii) in paragraph (e)(ii), for “use of lug, horn or other stock marks” substitute “means of identifying animals”,
 - (iii) in paragraph (e)(v), the word “regular” is repealed.
- (3) The Agricultural Holdings (Scotland) Act 1991 is modified by subsection (4).
- (4) In section 85 (interpretation), after subsection (2B) insert—
- “(2C) For the purpose of subsection (2A), but without prejudice to its generality, the Scottish Ministers may prescribe activities or descriptions of activities which are to be treated as a conservation activities.”.

PART 3

FINAL PROVISIONS

28 Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.
- (2) Regulations under this section may modify any enactment (including this Act).

29 Regulation-making powers

- (1) A power to make regulations conferred by this Act includes the power to make different provision for different purposes and areas.
- (2) Regulations under the following provisions are subject to the affirmative procedure: in the schedule, paragraphs 7(5), 9(8)(a), 40(4), 49(5), 50(7), 56(8), 59(1).

- (3) Regulations under the following provisions are subject to the negative procedure: section 7(3) and, in the schedule, paragraphs 7(4)(b), 9(8)(b), 36(3), 37(6), 45(2) and (6) and 48(4)(b).
- (4) Regulations under section 28—
- 5 (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, but
- (b) otherwise, are subject to the negative procedure.

30 Commencement

- (1) This Part, and section 7, come into force on the day after Royal Assent.
- 10 (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under subsection (2) may include transitional, transitory or saving provision.

31 Short title

The short title of this Act is the Land Reform (Scotland) Act 2025.

SCHEDULE
(introduced by section 8)

SMALL LANDHOLDINGS

PART 1

RENT

5

Rent

1 The rent payable by a small landholder to a landlord in respect of a small landholding is—

10

- (a) the rent agreed between the parties (either on entering into the lease or on a subsequent variation of it), or
- (b) the rent fixed by the Land Court.

Alteration of rent by agreement

2 (1) A small landholder and a landlord of a small landholding may, by written agreement, alter the rent payable in respect of the holding.

15

(2) Any agreement under sub-paragraph (1) must specify the period during which the altered rent is payable.

(3) On the expiry of the period specified in an agreement by virtue of sub-paragraph (2), the rent specified in the agreement as payable immediately before the expiry of the period remains the rent payable unless and until—

20

- (a) a new agreement entered into under sub-paragraph (1) takes effect, or
- (b) an order of the Land Court fixing the rent under paragraph 3 or 4 takes effect.

(4) Nothing in this paragraph prevents a new agreement under sub-paragraph (1) from taking effect prior to the expiry of the period specified in an agreement by virtue of sub-paragraph (2).

25

Application to Land Court to fix the rent

3 (1) On the application of a small landholder or a landlord of a small landholding, the Land Court may, where either condition A or condition B is met, make an order fixing the rent payable by the landholder in respect of the holding.

(2) Condition A is that—

30

(a) any previous order of the Land Court fixing the rent payable by the landholder in respect of the holding took effect at least 7 years prior to the date on which the new order will take effect,

(b) on the date on which the order will take effect, any period specified in writing in the lease (including in any variation of it) as the period for which the rent is fixed will have elapsed, and

35

(c) where the landholder is a new holder, the period of 7 years beginning with the date on which rent first became payable under the lease of the holding will have elapsed on the date on which the order will take effect.

(3) Condition B is that the landholder—

5 (a) intends to use the land comprising the holding, or any part of it, in accordance with a diversification proposal, or diversification agreement, agreed with the landlord under Part 2, or

(b) has used the land or any part of it for a purpose other than cultivation without the question of altering the rent to take account of that use being addressed.

10 (4) For the purpose of sub-paragraph (3)(b), the question of altering the rent to take account of a use is addressed where—

(a) there is an agreement under paragraph 2 altering the rent, or an order of the Land Court fixing the rent, which takes account of the use, or

15 (b) the landlord has agreed that the rent should remain unchanged in respect of the use.

(5) The rent that is to be fixed under sub-paragraph (1) in respect of the holding is the amount that the Land Court, taking account of all the circumstances, considers is the fair rent for the holding.

(6) In determining the fair rent for the holding, the Land Court—

20 (a) may not increase the rent in respect of any increase in the value of the holding resulting from—

(i) any permanent improvements to the extent that the landholder would be entitled to compensation in respect of those improvements upon renouncing the tenancy of the holding,

25 (ii) any unexhausted improvements to the extent that, if they were permanent improvements, the landholder would be entitled as mentioned to compensation in respect of them,

(b) may not decrease the rent in respect of any reduction in the value of the holding resulting from the use of any of the land, or changes to the land, for a purpose other than cultivation of the land by the landholder or the landholder's predecessor.

30 (7) Before making an order fixing the rent under sub-paragraph (1), the Land Court—

(a) must invite the landholder and the landlord to make representations,

(b) may—

(i) visit the holding to which the application relates,

35 (ii) take advice from assessors or valuers.

(8) An order fixing the rent under sub-paragraph (1) takes effect as from the first term date (being the date of Whitsunday or Martinmas) falling after the date on which the order is made.

- (9) In this paragraph, “new holder” means a new landholder, or the successor of a new landholder, for the purposes of section 2(1) of the Small Landholders (Scotland) Act 1911.

Land Court’s power to fix the rent in connection with a ruling on diversification

- 5 4 (1) This paragraph applies where—
- (a) the Land Court either—
 - (i) approves a diversification proposal in respect of a small landholding under paragraph 13(6)(a)(i), or
 - 10 (ii) removes, under paragraph 15(6)(a), a condition imposed by a landlord in respect of a diversification proposal, and
 - (b) an application is made, in those proceedings, for the Land Court to fix the rent payable by the landholder in respect of the holding.
- (2) The Land Court may make an order fixing the rent payable by the small landholder in respect of the holding.
- 15 (3) Sub-paragraphs (5) to (8) of paragraph 3 apply to an order under sub-paragraph (2) as they apply to an order under paragraph 3(1).

Land Court’s powers in respect of rent arrears

- 5 (1) The Land Court may, on the application of a small landholder to whom an application under paragraph 3(1) or 4(1)(b) (a “rent review application”) relates, make an order
- 20 sisting any proceedings for the removal of the landholder for non-payment of rent until the rent review application is determined.
- (2) An order under sub-paragraph (1) may specify conditions (about the payment of rent or otherwise) to which the order is subject.
- (3) Where an application is made under sub-paragraph (1), the Land Court must, in
- 25 determining the rent review application, also consider whether to make an order (either or both)—
- (a) imposing a payment plan in respect of the relevant rent arrears,
 - (b) reducing the relevant rent arrears.
- (4) In considering whether to make an order by virtue of sub-paragraph (3), the Land Court
- 30 must have regard to—
- (a) the anticipated level of the relevant rent arrears,
 - (b) the circumstances which have led to rent arrears accruing.
- (5) Where the landholder has paid some or all of the rent arrears accruing in respect of the small landholding, the Land Court may—
- 35 (a) make an order by virtue of sub-paragraph (3)(b) as if part or all of that payment had not been made,

- (b) order the landlord to reimburse the landholder to the extent that the relevant rent arrears are reduced below the amount paid by the landholder.
- (6) In this paragraph, “relevant rent arrears” means rent arrears due by the landholder to the landlord in respect of the holding as of the date on which the rent review application is determined.

PART 2

DIVERSIFICATION

Diversification agreement

- 6 (1) The small landholder and the landlord of a small landholding may enter into a diversification agreement.
- (2) A diversification agreement is an agreement that the land comprising the holding, or any part of it, may be used for a purpose other than cultivation (in this Part, a “diverse purpose”).
- (3) A diversification agreement must—
- (a) be in writing, and
 - (b) specify—
 - (i) the diverse purpose for which the land may be used,
 - (ii) the land that may be used for that purpose, by reference to a map,
 - (iii) any changes that may be made to the land for that purpose,
 - (iv) any conditions relating to the use of the land or any changes to be made to the land for that purpose, and
 - (v) the date on which the landholder may commence using the land for that purpose.

Notice of diversification

- 7 (1) A small landholder may give a notice (in this Part, a “notice of diversification”) to the landlord of the landholder’s small landholding where—
- (a) the landholder intends to use the land comprising the holding, or any part of it, for a diverse purpose, and
 - (b) the use of that land for that purpose is not the subject of a diversification agreement.
- (2) The notice must specify—
- (a) what the diverse purpose is,
 - (b) the land that would be used for that purpose, by reference to a map,
 - (c) any changes to the land which the landholder proposes to effect for that purpose, and

- (d) the date on which the landholder proposes to commence using the land for that purpose.
- (3) The notice must also—
- 5 (a) specify any environmental benefit that is intended to be provided in using the land for the purpose specified in the notice in accordance with sub-paragraph (2)(a),
- (b) specify—
- 10 (i) how any such environmental benefit is to be provided,
- (ii) how any proposed changes to the land are to be financed and managed,
- (iii) how any business that is intended to be furthered by the use of the land for that purpose is (so far as relating to the land) to be financed and managed, and
- (c) address such matters as may constitute any ground of objection mentioned in paragraph 9(3)(a)(i) to (iii).
- (4) The notice must—
- 15 (a) be given in writing at least 70 days prior to the date specified in the notice under sub-paragraph (2)(d),
- (b) be in such form as the Scottish Ministers may by regulations prescribe.
- (5) The Scottish Ministers may by regulations modify this paragraph so as to add or remove information to be included in a notice of diversification.
- 20 (6) In this Part, “diversification proposal” means—
- (a) the proposed use of land specified in a notice of diversification in accordance with sub-paragraph (2)(b) for the purpose specified in the notice in accordance with sub-paragraph (2)(a), and
- 25 (b) any proposed changes to the land specified in the notice in accordance with sub-paragraph (2)(c).

Request by landlord for information about proposed diversification

- 8 (1) A landlord may, on one occasion within the period of 30 days beginning with the day on which a notice of diversification is given to the landlord by a small landholder, request the landholder to provide the landlord with relevant information.
- 30 (2) Information is relevant if it—
- (a) relates to—
- (i) the diversification proposal set out in the notice,
- (ii) where the intended use of the land in accordance with the proposal is in furtherance of a business, the finance or management of the business, and
- 35 (b) is necessary for the landlord’s consideration of whether or not there are grounds under paragraph 9(3)(a)(i) to (iii) or (b) for objection to the proposal.
- (3) The landholder is to provide any information reasonably requested under sub-paragraph (1) within the period of 30 days beginning with the day on which it is requested.

Landlord's agreement or objection to notice of diversification

- 9 (1) A landlord who is given a notice of diversification by a small landholder must notify the landholder in writing within the period mentioned in sub-paragraph (2) of whether the landlord—
- 5 (a) agrees to the diversification proposal set out in the notice, or
(b) objects to the proposal.
- (2) The period is—
- (a) where the landlord has made a request for information under paragraph 8(1), the period of 60 days beginning with the day on which the request is made,
- 10 (b) where the landlord has made no such request, the period of 60 days beginning with the day on which the notice of diversification is given.
- (3) The landlord may object to the proposal only if—
- (a) the landlord reasonably considers that implementation of the proposal would—
- 15 (i) lessen significantly the amenity of the land or the surrounding area,
(ii) substantially prejudice the use of the whole of the land comprising the small landholding for cultivation in the future,
(iii) be substantially detrimental to the sound management of the estate of which the land consists or forms part, or
(iv) cause the landlord to suffer undue hardship,
- 20 (b) where the notice specifies a matter mentioned in paragraph 7(3)(b)(ii) or (iii), the landlord reasonably considers that it fails to demonstrate that the proposed changes are, or, as the case may be, the business (so far as relating to the land) is, viable, or
(c) the landholder has failed to comply with paragraph 8(3).
- 25 (4) Where the landlord agrees to the proposal, the landlord may impose on the landholder any reasonable conditions in relation to the implementation of the proposal.
- (5) Notification under sub-paragraph (1) must—
- (a) where the landlord objects to the proposal, set out the grounds for the objection,
- 30 (b) where the landlord imposes conditions under sub-paragraph (4), set out the conditions and the reasons for imposing them, and
(c) explain why the landlord considers the grounds or (as the case may be) conditions are reasonable.
- (6) The landlord is to be treated as having agreed to the proposal (without imposing any conditions on the landholder) if the landlord does not notify the landholder in accordance with sub-paragraph (1).
- 35

- (7) Where the landlord agrees to the proposal, the proposal may be implemented, subject to any conditions imposed under sub-paragraph (4), from either—
- (a) the later of—
 - (i) the date specified in the notice under paragraph 7(2)(d), and
 - (ii) where the landlord has made a request for information under paragraph 8(1), the date falling 70 days from the making of the request, or
 - (b) such earlier date as the landlord and the landholder may agree to.
- (8) The Scottish Ministers may by regulations—
- (a) modify sub-paragraph (3) so as to add or remove a ground for objection to a proposal,
 - (b) make provision about—
 - (i) information to be included in a notice given under sub-paragraph (1)(b) in relation to each ground of objection,
 - (ii) the manner in which that information is to be provided.

Negotiation of diversification agreement

- (1) This paragraph applies where a landlord notifies a small landholder under paragraph 9(1)(b) that the landlord objects to a diversification proposal in a notice of diversification.
- (2) The landholder may, within the period of 30 days beginning with the day on which notification of the objection is given, notify the landlord in writing that the landholder wishes to negotiate a diversification agreement with the landlord.
- (3) Where, following notification being given under sub-paragraph (2), the landholder and the landlord enter into a diversification agreement, the notice of diversification is to be treated as if it had not been given if—
- (a) the agreement is entered into within the period of 90 days beginning with the day on which notification of the objection was given under paragraph 9(1), and
 - (b) when the agreement is entered into, the landlord has not made an application to the Land Court under paragraph 13(2) in relation to the objection (but see paragraph 14).
- (4) Sub-paragraph (5) applies where the landholder notifies the landlord under sub-paragraph (2) that the landholder wishes to negotiate with the landlord.
- (5) The period within which the landlord may—
- (a) withdraw the objection to the diversification proposal in the notice of diversification under paragraph 11(1), or
 - (b) make an application to the Land Court under paragraph 13(2) in relation to the objection,

is, instead of the period mentioned in paragraph 11(1) or (as the case may be) 13(3), the period of 90 days beginning with the day on which the objection is notified under paragraph 9(1)(b).

Withdrawal of objection

- 11 (1) A landlord may withdraw an objection to a diversification proposal notified to a small landholder under paragraph 9(1)(b) within the period of 60 days beginning with the day on which it is notified.
- 5 (2) Where the landlord withdraws the objection, the landlord—
- (a) must notify the landholder in writing of the withdrawal, and that the landlord now agrees to the proposal, and
 - (b) may impose on the landholder any reasonable conditions in relation to the implementation of the proposal.
- 10 (3) Where the landlord imposes conditions under sub-paragraph (2)(b), the landlord must, at the same time as notifying the landholder of the withdrawal of the objection, notify the landholder in writing of—
- (a) the conditions and the reasons for imposing them, and
 - (b) why the landlord considers the conditions are reasonable.
- 15 (4) Where the objection is withdrawn under sub-paragraph (1)—
- (a) the proposal may be implemented, subject to any conditions imposed under sub-paragraph (2)(b), from the later of—
 - (i) the date specified in the notice of diversification under paragraph 7(2)(d), and
 - 20 (ii) the date on which the landlord notifies the landholder of the withdrawal under sub-paragraph (2)(a), and
 - (b) the landlord may not make an application to the Land Court under paragraph 13(2) in relation to the proposal.

Withdrawal or modification of conditions

- 25 12 (1) This paragraph applies where a landlord imposes conditions on a small landholder in relation to the implementation of a diversification proposal under paragraph 9(4) or 11(2)(b).
- (2) The landlord may, within the period of 60 days beginning with the day on which the conditions are notified to the landholder—
- 30 (a) withdraw the conditions, or
- (b) modify the conditions.
- (3) The landlord must notify the landholder in writing that the conditions are withdrawn or (as the case may be) modified.
- (4) Where the landlord modifies the conditions under sub-paragraph (2)(b), the landlord
- 35 must notify the landholder in writing of—
- (a) the modifications to the conditions and the reasons for making them, and
 - (b) why the landlord considers the conditions, as modified, are reasonable.

Determination of Land Court in relation to objection to diversification

- 13 (1) This paragraph applies where a landlord notifies a small landholder under paragraph 9(1)(b) that the landlord objects to a diversification proposal.
- 5 (2) The landlord may, within the period mentioned in sub-paragraph (3), apply to the Land Court for a determination that the objection is reasonable.
- (3) That period is the period of 60 days beginning with the day on which the objection is notified under paragraph 9(1)(b).
- (4) The Land Court may determine that the objection is—
- 10 (a) reasonable, or
- (b) unreasonable.
- (5) Where the Land Court determines that the objection is reasonable, the landholder may not implement the proposal.
- (6) Where the Land Court determines that the objection is unreasonable, the Court—
- 15 (a) must—
- (i) approve the proposal, and
- (ii) determine the date from which the proposal may be implemented, and
- (b) may impose on the landholder such reasonable conditions in relation to the implementation of the proposal as it considers appropriate.
- 20 (7) In deciding whether or not it is reasonable for the landlord to object to a notice of diversification, the Land Court is to—
- (a) consider if the intended use of the land for the diverse purpose is likely to have a positive effect on the environment, and
- 25 (b) if the Land Court considers such positive effects are likely, whether those positive effects outweigh any negative effects (including, in particular, any negative effects mentioned in paragraph 9(3)(a)(i) to (iii)).
- (8) Where the landlord does not make an application under sub-paragraph (2) (and does not withdraw the objection under paragraph 11(1))—
- 30 (a) the proposal is to be treated as having been agreed to by the landlord on the expiry of the period mentioned in sub-paragraph (3) (as read with paragraph 10(5)), and
- (b) the proposal may be implemented from the later of—
- (i) the date specified in the notice of diversification under paragraph 7(2)(d), and
- (ii) the date on which the proposal is treated as having been agreed to.
- (9) Where the landlord withdraws or abandons an application under sub-paragraph (2)—
- 35 (a) the proposal is to be treated as having been agreed to by the landlord on the day on which the application is withdrawn or treated as having been abandoned, and

- (b) the proposal may be implemented from the later of—
 - (i) the date specified in the notice of diversification under paragraph 7(2)(d), and
 - (ii) the date on which the proposal is treated as having been agreed to.

5 (10) An application purportedly made under sub-paragraph (2) after the end of the period mentioned in sub-paragraph (3) (as read with paragraph 10(5)) is to be treated as not having been made (and the Land Court may not make a determination under this paragraph in respect of it).

Diversification agreement entered into during proceedings under paragraph 13

- 10 14 (1) This paragraph applies where the landlord and the small landholder of a small landholding enter into a diversification agreement—
- (a) after the landlord makes an application to the Land Court under paragraph 13(1), but
 - 15 (b) before the Land Court makes a determination in relation to that application under paragraph 13(4).
- (2) The Land Court may, on the application of the landlord or the landholder, instead of determining the application under paragraph 13(4), determine that the diversification proposal to which the application relates—
- (a) is not approved by the Court, and
 - 20 (b) accordingly, is not to be implemented.
- (3) But nothing in sub-paragraph (2) prevents a landholder using land in accordance with the diversification agreement.

Application by landholder to Land Court to remove conditions

- 25 15 (1) Where a landlord imposes a condition on a small landholder under paragraph 9(4) or 11(2)(b), the landholder may, before the end of the period mentioned in sub-paragraph (2), apply to the Land Court for a determination that the condition is unreasonable.
- (2) That period is 60 days beginning with the day on which notification of the conditions is given under paragraph 9(5)(b) or (as the case may be) 11(3).
- 30 (3) Where a landlord modifies a condition under paragraph 12(2), the landholder may, before the end of the period mentioned in sub-paragraph (4), apply to the Land Court for a determination that the condition as modified is unreasonable.
- (4) That period is 60 days beginning with the day on which notification of the modification is given under paragraph 12(3).
- (5) In deciding whether or not a condition is unreasonable, the Land Court is to—
- 35 (a) consider if the intended use of the land for the diverse purpose is likely to have a positive effect on the environment, and

(b) if the Land Court considers such positive effects are likely, whether those positive effects outweigh any negative effects (including, in particular, any negative effects mentioned in paragraph 9(3)(a)(i) to (iii)) to which the condition relates.

5 (6) Where, on an application under sub-paragraph (1) or (3), the Land Court determines that the condition is unreasonable, the Court may—

(a) remove the condition, and

(b) in its place, impose on the landholder such reasonable conditions as it considers appropriate.

Use of land other than for cultivation

10 16 (1) A small landholding does not cease to be a small landholding by reason only that the land comprising the holding, or part of it, is used for a diverse purpose if the use of the land for that purpose is in accordance with a diversification agreement or an authorised diversification proposal.

15 (2) Any term of the lease of the holding which prohibits the use of the land comprising the holding, or part of it, for a diverse purpose is of no effect in relation to the use of the land in accordance with a diversification agreement or an authorised diversification proposal.

(3) In this paragraph, “authorised diversification proposal” means a diversification proposal which is—

20 (a) agreed to by a landlord under this Part, or

(b) approved by the Land Court under paragraph 13(6)(a)(i).

Interpretation of Part

17 In this Part—

“cultivation” means the use of land for horticulture or husbandry,

25 “diverse purpose” has the meaning given by paragraph 6(1),

“diversification agreement” means an agreement under paragraph 6(2),

“diversification proposal” has the meaning given by paragraph 7(6),

“notice of diversification” has the meaning given by paragraph 7(1).

PART 3

DISPOSAL OF HOLDING BY SMALL LANDHOLDER

CHAPTER 1

RENUNCIATION

5 *Renunciation of tenancy by small landholder*

- 18 (1) A small landholder may, on giving 1 year's written notice to the landlord, renounce the landholder's tenancy with effect as from any term of Whitsunday or Martinmas.
- (2) But where the landholder is a new holder, unless the landlord agrees otherwise, the tenancy may be renounced only with effect as from the same term of Whitsunday or
10 Martinmas from which it took effect.
- (3) In this paragraph, "new holder" means a new landholder, or the successor of a new landholder, for the purposes of section 2(1) of the Small Landholders (Scotland) Act 1911.

CHAPTER 2

ASSIGNATION

15

Ability to assign

- 19 (1) A small landholder may assign the landholder's interest in a small landholding to any one of the persons mentioned in sub-paragraph (2) if, following notice under sub-paragraph (4), the landlord of the holding consents to the proposed assignment.
- 20 (2) The persons referred to in sub-paragraph (1) are—
- (a) any person who would be, or would in any circumstances have been, entitled to succeed to the landholder's estate on intestacy by virtue of the Succession (Scotland) Act 1964,
- (b) the spouse or civil partner of—
- 25 (i) the landholder's descendant,
- (ii) the landholder's sibling,
- (c) in relation to the landholder's spouse or civil partner—
- (i) that person's sibling,
- (ii) a spouse or civil partner of such a sibling,
- 30 (iii) a descendant of such a sibling.
- (3) For the purpose of sub-paragraph (2)—
- (a) a reference to the spouse or civil partner of a person ("person A") includes a reference to the person who was the spouse or civil partner of person A immediately prior to person A's death,
- 35 (b) two people are siblings if they have at least one parent in common,

(c) a step-child or, as the case may be, step-sibling of a person is to be treated as being the same as a child or, as the case may be, sibling of a person (and sub-paragraph (2)(a) is to be read as if the rules of intestacy applied accordingly).

5 (4) A landholder who intends to assign the interest in a holding by virtue of this paragraph must—

(a) give the landlord of the holding notice in writing (referred to in this schedule as a “notice of proposed assignment”) at least 70 days prior to the date on which the assignment takes effect, and

(b) specify in the notice—

10 (i) the particulars of the proposed assignee (including the proposed assignee’s relationship to the landholder),

(ii) the terms upon which the assignment is to be granted, and

(iii) the date on which the assignment is to take effect.

15 (5) A landlord who is given a notice of proposed assignment is deemed to consent to the proposed assignment unless, within the period of 28 days beginning with the date on which the notice is given, the landlord gives the landholder a notice in writing—

(a) indicating that consent to the proposed assignment is withheld, and

(b) setting out the landlord’s grounds for withholding consent (see paragraph 20).

20 (6) Any term of a lease or of an agreement between a landlord and a small landholder which purports to provide that the landholder’s interest in the holding may not be assigned in accordance with this paragraph, or in accordance with an order of the Land Court under paragraph 20(6), is, in so far as it so purports, null and void.

Landlord’s objection to assignment

25 20 (1) Where an assignment is proposed in accordance with paragraph 19 and the proposed assignee is a near relative of the small landholder, the only grounds on which the landlord of the small landholding may withhold consent are that—

(a) the person is not of good character,

(b) the person does not have sufficient resources to be able to cultivate the holding with reasonable efficiency, or

30 (c) the person has neither sufficient training nor sufficient experience to be able to cultivate the holding with reasonable efficiency.

(2) But the ground of objection in sub-paragraph (1)(c) does not apply where the person—

35 (a) is engaged in or will begin, before the end of the period of 6 months beginning with the date on which the notice of proposed assignment is given, a course of relevant training in cultivation of land which the person is expected to complete satisfactorily within 4 years from that date, and

(b) has made arrangements to secure that the holding is cultivated with reasonable efficiency until the person completes that course.

- (3) Where an assignation is proposed in accordance with paragraph 19(1) and the proposed assignee is not a near relative of the landholder, the landlord of the holding may withhold consent if there are reasonable grounds for doing so.
- (4) In particular, the landlord has reasonable grounds for withholding consent where the proposed assignee—
- 5
- (a) would not have the ability to pay—
- (i) the rent due in respect of the holding, or
- (ii) for adequate cultivation of the holding, or
- (b) does not have the skills or experience that would be required properly to cultivate the holding.
- 10
- (5) If a landlord gives a notice under paragraph 19(5) withholding consent to a proposed assignation, the landholder may, within the period of 28 days beginning with the date on which that notice is given, apply to the Land Court for an order authorising the proposed assignation.
- 15
- (6) If, on the hearing of such an application, the Land Court is satisfied that none of the grounds for withholding consent set out in the notice under paragraph 19(5) are reasonable, it must make an order authorising the proposed assignation.
- (7) In any other case, the Land Court must dismiss the application.
- (8) A decision of the Land Court under this paragraph is final.
- 20
- (9) For the purposes of this paragraph, a near relative, in relation to a small landholder, means—
- (a) the landholder's parent,
- (b) in relation to the landholder's child—
- (i) that child,
- 25
- (ii) that child's spouse or civil partner,
- (iii) a descendant of that child,
- (c) in relation to the landholder's sibling—
- (i) that sibling,
- (ii) that sibling's spouse or civil partner,
- 30
- (iii) a descendant of that sibling,
- (d) in relation to the landholder's spouse or civil partner—
- (i) that spouse or civil partner,
- (ii) that spouse or civil partner's sibling,
- (iii) a spouse or civil partner of such a sibling,
- 35
- (iv) a descendant of such a sibling.

(10) For the purpose of sub-paragraph (9)—

- (a) a reference to the spouse or civil partner of a person (“person A”) includes a reference to the person who was the spouse or civil partner of person A immediately prior to person A’s death,
- (b) a step-child of a person is to be treated as being the same as a child of a person.

CHAPTER 3

SUCCESSION

Bequest of holding

21 (1) A small landholder may, by will or other testamentary writing, bequeath the landholder’s interest in a small landholding to any one of the persons mentioned in sub-paragraph (2).

(2) The persons referred to in sub-paragraph (1) are—

- (a) any person who would be, or would in any circumstances have been, entitled to succeed to the landholder’s estate on intestacy by virtue of the Succession (Scotland) Act 1964,
- (b) the spouse or civil partner of—
 - (i) the landholder’s descendant,
 - (ii) the landholder’s sibling,
- (c) in relation to the landholder’s spouse or civil partner—
 - (i) that person’s sibling,
 - (ii) a spouse or civil partner of such a sibling,
 - (iii) a descendant of such a sibling.

(3) For the purpose of sub-paragraph (2)—

- (a) a reference to the spouse or civil partner of a person (“person A”) includes a reference to the person who was the spouse or civil partner of person A immediately prior to person A’s death,
- (b) two people are siblings if they have at least one parent in common,
- (c) a step-child or, as the case may be, step-sibling is to be treated as being the same as a child or, as the case may be, sibling (and sub-paragraph (2)(a) is to be read as if the rules of intestacy applied accordingly).

(4) Sub-paragraph (5) applies where a person to whom a small landholder’s interest in a holding is bequeathed (referred to in this schedule as the “legatee”) accepts the bequest.

(5) The legatee must give the landlord of the holding written notice of the bequest and the legatee’s acceptance of it—

- (a) before the end of the period of 21 days beginning with the date of death of the landholder, or

(b) where the legatee is unavoidably unable to give notice within the period specified in paragraph (a), as soon as practicable thereafter.

(6) A notice under sub-paragraph (5) must specify the legatee's relationship to the deceased landholder.

5 (7) Unless a counter-notice is given by the landlord in accordance with paragraph 23(2) or 24(2), the giving of a notice under sub-paragraph (5) has the effect of making the deceased landholder's lease of the holding binding on the landlord and the legatee, as landlord and tenant respectively, from the date of the deceased's death.

Intestate succession to holding

10 22 (1) A small landholder's interest in a small landholding is, on the landholder's death, to be treated as intestate estate of the deceased in accordance with Part 1 of the Succession (Scotland) Act 1964 where—

(a) it is not the subject of a valid bequest by the deceased, or

(b) it is the subject of such a bequest, but the bequest—

15 (i) is not accepted by the legatee,

(ii) is the subject of a counter-notice under paragraph 24(2) declaring it to be null and void, and either no appeal is made to the Land Court within the period permitted for doing so or any such appeal is withdrawn, or

20 (iii) is declared, or confirmed, to be null and void by the Land Court under paragraph 23(6)(a) or 24(5).

(2) A person to whom a landholder's interest in a small landholding is transferred under section 16 of the Succession (Scotland) Act 1964 (referred to in this schedule as "the acquirer") must give written notice of the acquisition to the landlord of the holding—

25 (a) before the end of the period of 21 days beginning with the date of acquisition of the interest in the holding, or

(b) where the acquirer is unavoidably unable to give notice within the period specified in paragraph (a), as soon as practicable thereafter.

(3) A notice under sub-paragraph (2) must specify the acquirer's relationship to the deceased landholder.

30 (4) Unless a counter-notice is given by the landlord in accordance with paragraph 23(2) or 24(2), the giving of a notice under sub-paragraph (2) has the effect of making the deceased landholder's lease of the holding binding on the landlord and the acquirer, as landlord and tenant respectively, from the date of the deceased's death.

Landlord's objection to successor: near relatives

35 23 (1) This paragraph applies where a landlord is given a notice under paragraph 21(5) or 22(2) by a legatee or (as the case may be) acquirer who is a near relative of the deceased.

- (2) The landlord may, within the period of 28 days beginning with the day on which the notice is given, give the person a counter-notice—
- (a) indicating that the landlord objects to the person’s succession to the small landholding, and
 - 5 (b) setting out the landlord’s grounds for objecting.
- (3) The only grounds on which the landlord may object to the person’s succession to the holding are that—
- (a) the person is not of good character,
 - 10 (b) the person does not have sufficient resources to be able to cultivate the holding with reasonable efficiency,
 - (c) the person has neither sufficient training nor sufficient experience to be able to cultivate the holding with reasonable efficiency.
- (4) But the ground of objection in sub-paragraph (3)(c) does not apply where the person—
- 15 (a) is engaged in or will begin, before the end of the period of 6 months beginning with the date on which the notice under paragraph 21(5) or 22(2) is given, a course of relevant training in cultivation of land which the person is expected to complete satisfactorily within 4 years from that date, and
 - (b) has made arrangements to secure that the holding is cultivated with reasonable efficiency until the person completes that course.
- 20 (5) If the landlord gives a counter-notice under sub-paragraph (2), the landlord may, within the period of 28 days beginning with the day on which the counter-notice is given, apply to the Land Court for an order—
- (a) in the case of a legatee, declaring the bequest to be null and void,
 - (b) in the case of an acquirer, terminating the lease.
- 25 (6) If, on the hearing of such an application, a ground of objection set out in the counter-notice is established to the satisfaction of the Land Court, it must make an order—
- (a) in the case of a legatee, declaring the bequest to be null and void,
 - 30 (b) in the case of an acquirer, terminating the lease with effect as from such term of Whitsunday or Martinmas as the court specifies.
- (7) In any other case, the Land Court must make an order declaring the deceased small landholder’s lease of the holding to be binding on the landlord and the legatee or (as the case may be) acquirer, as landlord and tenant respectively, from the date of the deceased’s death.
- 35 (8) A decision of the Land Court under this paragraph is final.
- (9) Where the landlord does not apply to the Land Court under sub-paragraph (5), the deceased landholder’s lease of the holding is to be binding on the landlord and the

legatee or (as the case may be) acquirer, as landlord and tenant respectively, from the date of the deceased's death.

(10) For the purposes of this Chapter, a near relative, in relation to a small landholder, means—

- 5 (a) the landholder's parent,
- (b) in relation to the landholder's child—
 - (i) that child,
 - (ii) that child's spouse or civil partner,
 - (iii) a descendant of that child,
- 10 (c) in relation to the landholder's sibling—
 - (i) that sibling,
 - (ii) that sibling's spouse or civil partner,
 - (iii) a descendant of that sibling,
- (d) in relation to the landholder's spouse or civil partner—
 - 15 (i) that spouse or civil partner,
 - (ii) that spouse or civil partner's sibling,
 - (iii) a spouse or civil partner of such a sibling,
 - (iv) a descendant of such a sibling.

(11) For the purpose of sub-paragraph (10)—

- 20 (a) a reference to the spouse or civil partner of a person ("person A") includes a reference to the person who was the spouse or civil partner of person A immediately prior to person A's death,
- (b) a step-child of a person is to be treated as being the same as a child of a person.

Landlord's objection to successor: other persons

25 24 (1) This paragraph applies where a landlord is given a notice under paragraph 21(5) or 22(2) by a legatee or (as the case may be) acquirer who is not a near relative of the deceased.

(2) The landlord may, within the period of 28 days beginning with the day on which the notice is given, give the person a counter-notice—

- 30 (a) indicating that the landlord objects to the person's succession to the small landholding,
- (b) setting out the landlord's grounds for objecting, and
- (c) either—
 - (i) in the case of a legatee, declaring the bequest to be null and void, or

- (ii) in the case of an acquirer, terminating the lease with effect as from such term of Whitsunday or Martinmas as the landlord specifies, being a term at least 1 year but no more than 2 years from the date of the counter-notice.
- 5 (3) If the landlord gives a counter-notice under sub-paragraph (2), the person to whom it is given may, within the period of 28 days beginning with the day on which the counter-notice is given, appeal to the Land Court.
- (4) If, on the hearing of such an appeal, any reasonable ground stated by the person—
- (a) in the case of a legatee, for not declaring the bequest to be null and void, or
- (b) in the case of an acquirer, for not terminating the lease,
- 10 is established to the satisfaction of the Land Court, it must make an order quashing the counter-notice.
- (5) In any other case, the Land Court must make an order confirming the counter-notice.
- (6) Where the Land Court quashes a counter-notice under sub-paragraph (4), the deceased small landholder's lease of the holding is, accordingly, to be binding on the landlord and the legatee or (as the case may be) acquirer, as landlord and tenant respectively, from the date of the deceased's death.
- 15 (7) A decision of the Land Court under this paragraph is final.

Landlord's objection to successor: right to temporary occupation

- 20 25 (1) From the date of the deceased small landholder's death until the conclusion of any proceedings under paragraph 23 or 24, the legatee or (as the case may be) acquirer is entitled to possession of the small landholding in question.
- (2) But sub-paragraph (1) does not apply—
- (a) where the executor in whom the landholder's interest in the lease is vested under section 14 of the Succession (Scotland) Act 1964 objects, or
- 25 (b) where, on the application of the landlord, the Land Court directs otherwise on cause shown.
- (3) A decision of the Land Court under this paragraph is final.

PART 4

COMPENSATION

CHAPTER 1

RIGHT TO COMPENSATION

Small landholder's right to compensation

- 30 26 (1) Paragraphs 27 and 28 apply where—
- (a) a small landholder is removed from a small landholding,

- (b) a small landholder renounces the tenancy of a small landholding (see paragraph 18),
- (c) a small landholder enters into a new tenancy, to which the Landholders Acts do not apply, of the land comprising the landholder's small landholding, or
- 5 (d) in the case of a tenancy of a small landholding which forms part of the estate of a deceased small landholder, one of the conditions mentioned in sub-paragraph (2) is met.

(2) The conditions referred to in sub-paragraph (1)(d) are that—

- 10 (a) the tenancy is terminated by virtue of subsection (3) of section 16 of the Succession (Scotland) Act 1964,
- (b) following transfer to an acquirer under that section, the tenancy is terminated by the Land Court under paragraph 23(5), or
- (c) following such transfer, the tenancy is the subject of a counter-notice under paragraph 24(2) declaring it to be terminated and either—
- 15 (i) no appeal is made to the Land Court within the period permitted for doing so, or any appeal made is withdrawn, or
- (ii) the Land Court confirms the counter notice under paragraph 24(5).

(3) Where paragraphs 27 and 28 apply by reason of sub-paragraph (1)(d)—

- 20 (a) any compensation that arises under those paragraphs is due to—
- (i) where the condition in sub-paragraph (2)(a) is met, the estate of the deceased landholder,
- (ii) where the condition in sub-paragraph (2)(b) or (c) is met, the acquirer to whom the tenancy was transferred, and
- 25 (b) Chapter 3 applies to the executor or (as the case may be) the acquirer in respect of that compensation as if the person were a small landholder.

(4) For the purposes of sub-paragraph (1)(a) and (b), a landholder is not to be treated as having been removed from a small landholding or as having renounced a tenancy of it if the landholder continues in occupation of it under a new tenancy to which the Landholders Acts apply.

30 *Small landholder's right to compensation: improvements*

27 (1) The small landholder is entitled to compensation from the landlord of the small landholding where—

- (a) a permanent improvement has been made to the holding,
- (b) the improvement is suitable to the holding,
- 35 (c) the improvement was made or paid for by the landholder or the landholder's predecessors under the same tenancy, and

(d) either—

- (i) the improvement was not made in order to comply with a specific written agreement, or
- (ii) it was made for such a reason but fair consideration (by way of reduction of rent or otherwise) was not received for the improvement.

(2) The amount of compensation payable under sub-paragraph (1) is an amount equal to the value of the permanent improvement to an incoming tenant of the holding after deduction of the value of any consideration or assistance (financial or otherwise) given in respect of the improvement by the landlord, or the landlord's predecessors in title, to the landholder or the landholder's predecessors under the same tenancy.

(3) In this Part—

“permanent improvement” means—

(a) an improvement relating to—

- (i) a dwelling-house,
- (ii) work carried out in implementation of an HRA action plan included in an HRA designation order made under section 1 of the Housing (Scotland) Act 2006 (Housing renewal areas: criteria),
- (iii) farm offices,
- (iv) subsoil or other drains,
- (v) walls or fences,
- (vi) deep trenching,
- (vii) clearing the ground,
- (viii) planting trees,
- (ix) making piers or landing stages,
- (x) roads suitable for pedestrian and vehicular traffic from the holding to a public road (as defined in section 151 of the Roads (Scotland) Act 1984) or the sea shore,

(b) any other improvement which the Land Court considers adds to the value of a holding to an incoming tenant,

“predecessor under the same tenancy” does not include a sub-tenant.

Small landholder's right to compensation: increase in value due to diversification

28 (1) The small landholder is entitled to compensation from the landlord of the small landholding where—

- (a) during the tenancy, the use of any part of the holding, or a change to any part of it, for a purpose other than cultivation has increased the value of the holding from what it would otherwise have been,
- (b) the use or change occurred wholly on or after the coming into force of this paragraph, and

(c) the use or change was authorised in accordance with Part 2.

(2) The amount of compensation payable under sub-paragraph (1) is an amount equal to the value of the use or change in question to an incoming tenant of the holding after deduction of—

5 (a) any benefit which the landlord or the landlord's predecessor in title has given, or has agreed in writing to give, the landholder or the landholder's predecessors under the same tenancy in consideration of the use or change in question, and

(b) any grant which has been or will be made to the landholder, or the landholder's predecessors under the same tenancy, in respect of the use or change in question.

10 (3) But where an incoming tenant's ability to use the whole of the land comprised in the holding for the purposes of cultivation is substantially prejudiced as a result of the use or change in question, no compensation is payable under sub-paragraph (1) unless the use or change has an environmental benefit.

Landlord's right to compensation

15 29 (1) Paragraphs 30 and 31 apply where—

(a) a small landholder is removed from a small landholding,

(b) a small landholder renounces the tenancy of a small landholding (see paragraph 18),

20 (c) a small landholder enters into a new tenancy, to which the Landholders Acts do not apply, of the land comprising the landholder's small landholding,

(d) a small landholder abandons the tenancy of a small landholding, or

(e) in the case of a tenancy of a small landholding which forms part of the estate of a deceased small landholder, one of the conditions mentioned in sub-paragraph (2) is met.

25 (2) The conditions referred to in sub-paragraph (1)(e) are that—

(a) the tenancy is terminated by virtue of subsection (3) of section 16 of the Succession (Scotland) Act 1964,

(b) following transfer to an acquirer under that section, the tenancy is terminated by the Land Court under paragraph 23(5), or

30 (c) following such transfer, the tenancy is the subject of a counter-notice under paragraph 24(2) declaring it to be terminated, and either—

(i) no appeal is made to the Land Court within the period permitted for doing so, or any appeal made is withdrawn, or

(ii) the Land Court confirms the counter notice under paragraph 24(5).

35 (3) Where paragraphs 30 and 31 apply by reason of sub-paragraph (1)(e)—

(a) any compensation that arises under those paragraphs is due by—

(i) where the condition in sub-paragraph (2)(a) is met, the estate of the deceased landholder,

(ii) where the condition in sub-paragraph (2)(b) or (c) is met, the acquirer to whom the tenancy was transferred, and

(b) Chapter 3 applies to the executor or (as the case may be) the acquirer in respect of that compensation as if the person were a small landholder.

5 (4) For the purposes of sub-paragraph (1)(a) and (b), a landholder is not to be treated as having been removed from a small landholding or as having renounced a tenancy of it if the landholder continues in occupation of it under a new tenancy to which the Landholders Acts apply.

10 (5) Where a landholder abandons a tenancy of a small landholding, the tenancy is to be treated for the purposes of this Part as having been terminated.

Landlord's right to compensation: deterioration etc. of holding.

30 (1) The landlord of the small landholding is entitled to compensation from the small landholder where—

15 (a) there is dilapidation, deterioration or damage to any part of the holding, or to anything in or on the holding, and

(b) the dilapidation, deterioration or damage is the result of the landholder, or the landholder's predecessor under the same tenancy, failing to fulfil that person's responsibility to cultivate the holding or to use it in accordance with a use or change authorised in accordance with Part 2.

20 (2) The amount of compensation payable under sub-paragraph (1) is whichever is the greater of—

(a) an amount equal to the amount (if any) by which the value of the holding is reduced from what it would have been without the dilapidation, deterioration or damage in question,

25 (b) the cost, as at the relevant date, of making good the dilapidation, deterioration or damage in question.

(3) For the purpose of sub-paragraph (2), the relevant date is—

(a) where the right to compensation arises due to renunciation or removal, whichever is the later of—

30 (i) the date of the landholder's quitting the holding,

(ii) the date of termination of the tenancy,

(b) in any other case, the date of termination of the tenancy.

Landlord's right to compensation: decrease in value due to diversification

35 31 (1) The landlord of the small landholding is entitled to compensation from the small landholder where—

(a) during the tenancy, the use of any part of the holding, or a change to any part of it, for a purpose other than cultivation has reduced the value of the holding from what it would otherwise have been, and

(b) that use or change occurred wholly on or after the coming into force of this paragraph.

(2) Sub-paragraph (1) applies regardless of whether or not the use or change in question was authorised in accordance with Part 2.

5 (3) The amount of compensation payable under sub-paragraph (1) is an amount equal to the amount by which the value of the holding is reduced from what it would have been without the use or change in question.

Recovery of compensation: further provision

32 (1) Compensation is recoverable by a landlord under paragraph 30 or 31 only where—

10 (a) at least 3 months prior to the termination of the tenancy, the landlord gives notice in writing to the small landholder of the landlord's intention to claim compensation,

(b) the landholder abandons the small landholding, or

(c) the Land Court agrees that the requirement for notice should be dispensed with in all the circumstances of the case.

15 (2) Where a small landholder has remained in occupation of a small landholding during more than one tenancy, neither the landholder nor the landlord is deprived of a right to compensation under this Chapter by reason only that the thing which would give rise to the right to compensation occurred during a previous tenancy of the landholder's.

CHAPTER 2

20 style="text-align: center;">COMPENSATION: ANCILLARY PROVISION

Outstanding rent

33 Where compensation is due to a small landholder by a landlord under Chapter 1, any sum of rent due or to become due by the landholder in respect of the small landholding may be offset against that compensation.

25 *Compensation to outgoing landholder by incoming landholder*

34 (1) This paragraph applies where an incoming tenant of a small landholding (the "incoming landholder") agrees with the outgoing small landholder of the holding (the "outgoing landholder") and the landlord of the holding to take on the outgoing landholder's rights and liabilities in respect of any rights to compensation which would otherwise arise under this Part.

30 (2) The incoming landholder is to be treated for the purposes of calculation of compensation under this Part as—

(a) having been in occupation of the holding as the landholder during the outgoing landholder's tenancy, and

35 (b) having made or paid for any permanent improvements which were made or paid for by the outgoing landholder or the outgoing landholder's predecessors under the same tenancy,

and, accordingly, the outgoing landholder has no right to, nor liability for, compensation under this Part.

Record of condition

- 5 35 (1) A landlord or a small landholder of a small landholding may, at any time during the tenancy of the holding, require a record of condition of the holding, or part of the holding, to be made.
- (2) A record of condition is a record specifying some or all of the following—
- (a) the condition of—
- 10 (i) the cultivation of the holding or (as the case may be) part of the holding,
- (ii) anything in or on the holding,
- (b) who has made or paid for any permanent improvements.
- (3) A record of condition is to be made by a person appointed—
- (a) by agreement by the landlord and the landholder, or
- (b) by the Scottish Ministers on the application of either the landlord or the landholder.
- 15 (4) The cost of making a record of condition is payable jointly by the landlord and the landholder.
- (5) Where a person is appointed by the Scottish Ministers to make a record of condition—
- (a) the Scottish Ministers may charge such reasonable fee as they determine for making the appointment,
- 20 (b) the remuneration payable to the person making the record is such amount as the Scottish Ministers determine,
- (c) any other expenses of, or incidental to, the making of the record are subject to taxation by the auditor of the sheriff court or, on review, by the sheriff,
- 25 (d) the landlord and the landholder are jointly and severally liable for the cost of making the record.
- (6) The Land Court is, on an application being made to it by either party, to determine any dispute between the landlord and the landholder relating to the making of a record of condition.

CHAPTER 3

PROCESS FOR DETERMINATION OF COMPENSATION AMOUNT

Application to Tenant Farming Commissioner

- 36 (1) A landlord or small landholder may apply to the Tenant Farming Commissioner for an assessment of the amount of compensation due to or by a person under this Part in respect of a small landholding.
- 35 (2) Any application under sub-paragraph (1) must be made no later than the end of the period of 3 months beginning with the date of termination of the tenancy of the holding.

- (3) The Scottish Ministers may by regulations prescribe the form and content of an application under sub-paragraph (1).

Appointment of valuer by Tenant Farming Commissioner

5 37 (1) This paragraph applies where the Tenant Farming Commissioner is given an application under paragraph 36.

(2) The Commissioner must appoint a person (referred to in this Part as the “valuer”) to carry out the assessment mentioned in paragraph 40(1).

(3) A person may be appointed as the valuer only where the person appears to the Commissioner—

10 (a) to be independent of the landlord and the small landholder, and

(b) to possess qualifications, knowledge and experience suitable for assessing the compensation that may be payable to landlords and landholders of small landholdings.

15 (4) The valuer must be appointed before the end of the period of 28 days beginning with the date on which the application is given.

(5) The Commissioner must give notice in writing to the landlord and the landholder of the name and address of the valuer appointed under sub-paragraph (2).

(6) The Scottish Ministers may by regulations modify the period specified in sub-paragraph (4).

20 *Objection to valuer appointed by Tenant Farming Commissioner*

38 (1) The small landholder or, as the case may be, the landlord may apply to the Land Court to appoint a person as the valuer in place of the valuer appointed under paragraph 37(2) on the grounds that the valuer so appointed (either or both)—

(a) is not independent of the landlord or (as the case may be) the landholder,

25 (b) does not possess the qualifications, knowledge and experience mentioned in paragraph 37(3)(b).

(2) An application under sub-paragraph (1)—

(a) must—

30 (i) be made before the end of the period of 14 days beginning with the date on which notice of the appointment was given to the landlord or, as the case may be, landholder under paragraph 37(5), and

(ii) state the ground of objection to the valuer appointed by the Commissioner, and

(b) may propose a person to be appointed as the valuer in place of the valuer appointed by the Commissioner.

35 (3) The Land Court may, on an application under sub-paragraph (1)—

(a) refuse the application, or

(b) allow the application and appoint another person as the valuer (whether a person proposed in the application or not).

(4) The decision of the Land Court on an application under sub-paragraph (1) is final.

Valuer's expenses

5 39 (1) Where a valuer is appointed under paragraph 37(2) or 38(3)(b), the person responsible for meeting the expenses incurred in carrying out the valuer's functions under this Part is—

(a) where the compensation award is in a person's favour, the person by whom the compensation is payable,

10 (b) where there is no compensation award, the person who made the application under paragraph 36(1).

(2) Where, in the case of a valuer appointed under paragraph 37(2), those expenses have been met by the Commissioner, the Commissioner is entitled to recover them from the person by whom they are payable under sub-paragraph (1).

15 (3) For the purpose of sub-paragraph (1), a compensation award is in a person's favour where, ignoring the effect of paragraph 33, the compensation payable to the person under this Part exceeds the compensation payable by the person under it.

Assessment of compensation

20 40 (1) The valuer is to assess the amount of compensation to which the landlord or (as the case may be) small landholder is entitled under Chapter 1.

(2) The valuer is, prior to carrying out the assessment under sub-paragraph (1), to—

(a) invite the landlord and the landholder to make written representations about the assessment, and

(b) have regard to any such representations.

25 (3) For the purposes of any assessment under sub-paragraph (1), the valuer may—

(a) enter onto land, and

(b) require the landlord and landholder to comply with any reasonable request made by the valuer.

30 (4) The Scottish Ministers may by regulations modify this paragraph so as to specify the basis on which the valuer is to assess the compensation payable and the consideration to be given to certain matters by the valuer in doing so.

Notice of assessment

41 (1) The valuer must—

(a) give a notice in writing (referred to in this Part as a "notice of assessment") to—

35 (i) the small landholder, and

(ii) the landlord, and

- (b) at the same time, give a copy of the notice to the Tenant Farming Commissioner.
- (2) The notice of assessment must be given before the end of the period of 8 weeks beginning with—
- 5 (a) the day after the day on which the period for applying under paragraph 38(1) to appoint a different person as the valuer ends without such an application being made, or
- (b) where such an application is made—
- (i) the date of the Land Court's decision on it, or
- (ii) the date on which the application is withdrawn.
- 10 (3) A notice of assessment must—
- (a) specify the amount, assessed under paragraph 40, of compensation—
- (i) to which the landholder is entitled under paragraphs 27 and 28,
- (ii) to which the landlord is entitled under paragraphs 30 and 31,
- (b) specify the date of valuation of each of the amounts mentioned in paragraph (a),
- 15 (c) set out how the valuer arrived at each of those amounts,
- (d) be dated.
- (4) The notice may also contain or be accompanied by any other information that the valuer considers appropriate.

Appeal against valuer's assessment

- 20 42 (1) The small landholder or the landlord may appeal to the Lands Tribunal against a notice of assessment.
- (2) An appeal under this paragraph must—
- (a) state the grounds on which it is being made, and
- 25 (b) be lodged before the end of the period of 21 days beginning with the date on which the notice of assessment is given.
- (3) The Lands Tribunal may reassess the amount of compensation assessed under paragraph 40 (and any factor affecting the amount).
- (4) The valuer whose assessment is appealed against may be a witness in the appeal proceedings.
- 30 (5) In the appeal proceedings, in addition to the landlord and the landholder, the following persons are entitled to be heard—
- (a) where the landlord is a creditor in a standard security, the owner of the small landholding,
- (b) where the landlord is the owner of the small landholding, any creditor in a standard security over the holding or any part of it.
- 35 (6) The Lands Tribunal is to give written reasons for its decision on an appeal under this paragraph.

- (7) The decision of the Lands Tribunal in an appeal under this paragraph is final.

Referral of certain matters by Lands Tribunal to Land Court

- 43 (1) This paragraph applies where, in an appeal before the Lands Tribunal under paragraph 42, an issue of law arises which may competently be determined by the Land Court by virtue of section 1(6) of the Scottish Land Court Act 1993 or this Act.
- (2) The Tribunal is to refer the issue to the Land Court for determination unless the Tribunal considers that it is not appropriate to do so.

PART 5

RIGHT TO BUY

Register of Community Interests in Land: small landholders' interests in buying land

- 44 (1) In this Part—

“Keeper” means the person who keeps the Register of Community Interests in Land under section 36 of the Land Reform (Scotland) Act 2003,

“Register” means that Register.

- (2) The Keeper is to keep the Register so that there is contained in it a part for registering small landholders' interests in buying land in accordance with paragraph 45.
- (3) There is to be included in that part of the Register—
- (a) a record of any notice or notification given to the Keeper under this Part, and
- (b) where the registration of a landholder's interest in buying land is removed under paragraph 47(4), an entry specifying the date on which that is effected.
- (4) A reference in this Part to a small landholder does not include a reference to a person who is a sub-tenant of a small landholding.

Registration of small landholder's interest in buying land

- 45 (1) A small landholder may apply to have registered an interest in buying the land comprising the landholder's small landholding by giving a notice (a “notice of interest”) to the Keeper.

- (2) The notice of interest must—

- (a) be in such form as the Scottish Ministers may prescribe by regulations, and
- (b) specify—

- (i) the particulars of the landholder and the owner of the land,
- (ii) the location and boundaries of the land (by reference, where appropriate, to the lease of the holding or any map or drawing),
- (iii) any interest or rights comprised in the land (including any sporting or mineral rights), and

(iv) such other information as the Scottish Ministers may so prescribe.

(3) The landholder must—

- (a) give a copy of the notice of interest to the owner of the land, and
- (b) notify the Keeper that the copy has been so given.

5 (4) On receipt of the notice of interest, the Keeper must—

(a) register—

- (i) the landholder's interest in buying the land,
- (ii) the details specified in the notice of interest, and
- (iii) the date of registration, and

10 (b) give an extract of the registration to the landholder and the owner of the land.

(5) Where the registration relates to land over which there is a standard security, the owner of the land must—

- (a) intimate that fact to the landholder, and
- (b) give a copy of the extract to the creditor in the standard security within the period of 28 days beginning with the day on which the owner is given the extract.

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(6) The Keeper may charge such reasonable fee as the Scottish Ministers may by regulations specify for—

- (a) registering landholders' interests in buying land, and
- (b) providing extracts, and copy extracts, of registration.

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Owner's challenge to registration

46 (1) This paragraph applies where the Keeper gives the owner of land comprising a small landholding, under paragraph 45(4)(b), an extract of the registration of the small landholder's interest in buying the land comprising the holding.

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(2) The owner may, by notice in writing to the Keeper, challenge the registration on the grounds that any matter contained in the extract is inaccurate.

(3) On receipt of notice under sub-paragraph (2), the Keeper is to make such enquiry in connection with the landholder's interest as the Keeper considers appropriate.

(4) If, following such an enquiry, the Keeper considers that the notice of interest is inaccurate, the Keeper—

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- (a) must, if the inaccuracy is material, rescind the registration of the landholder's interest,
- (b) may, if the inaccuracy is not material, amend the registration.

(5) Where, under sub-paragraph (4)—

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- (a) the registration is rescinded, the Keeper must intimate that fact to the landholder and the owner,

(b) the registration is amended, the Keeper must give an extract of the registration to the landholder and the owner.

(6) The landholder or the owner may appeal to the Land Court against any decision made, following notice under sub-paragraph (2), by the Keeper in respect of the registration.

5 (7) The Court may make such order as it considers appropriate in an appeal under sub-paragraph (6).

Duration of registration

47 (1) The registration under paragraph 45(4)(a) of a small landholder's interest in buying land—

10 (a) continues to have effect only in relation to such land as remains comprised in the landholder's small landholding, and

(b) ceases to have effect—

(i) if the registration is rescinded under paragraph 46(4)(a),

(ii) if the landholder's tenancy of the land is terminated, or

15 (iii) where neither of those things has occurred, at the end of the period of 5 years beginning with the date of registration.

(2) The owner of the land must give notice in writing to the Keeper where—

(a) the landholder's tenancy of the land is terminated during the period mentioned in sub-paragraph (1)(b)(iii), or

20 (b) there is a reduction in the land comprising the holding during that period.

(3) Where a landholder's interest in buying land is, or has been, registered, the landholder may at any time apply under paragraph 45(1) to have the interest registered again (with or without modification of the matters specified in the notice of interest).

25 (4) The Keeper must remove from the Register any registration of a landholder's interest in buying land which no longer has effect.

Notice of proposal to transfer land

48 (1) This paragraph applies where—

(a) a small landholder's interest in buying the land comprising the landholder's small landholding has been registered under paragraph 45(4)(a), and

30 (b) the registration has not ceased to have effect.

(2) The owner of the land, and any eligible creditor in relation to the land, must, before transferring the land or any part of it to another person, give the landholder notice of any proposal by the owner or (as the case may be) the creditor to make such a transfer.

35 (3) But sub-paragraph (2) does not apply if the transfer is an exempt transfer for the purposes of this paragraph (see paragraph 49).

(4) Notice under sub-paragraph (2) must be given—

(a) in writing, and

(b) in accordance with such provision (including provision as to the form of the notice) as the Scottish Ministers may prescribe by regulations.

(5) An owner or creditor who gives a landholder notice under sub-paragraph (2) must give a copy of the notice to the Keeper.

5 (6) In this Part, “eligible creditor”, in relation to land, means a creditor in a standard security with a right to sell the land under—

(a) section 20(2) or 23(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970, or

(b) a warrant granted under section 24(1) of that Act.

10 *Transfers not requiring notice*

49 (1) A transfer of land is an exempt transfer for the purposes of paragraph 48 if the transfer is or (as the case may be) would be—

(a) otherwise than for value,

15 (b) in implement or pursuance of an order of a court, other than an order under section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970 or a decree in an action for the division and sale of land,

(c) between spouses or civil partners in pursuance of an arrangement between them entered into at any time after they have ceased living together,

(d) between companies in the same group,

20 (e) to a statutory undertaker for the purpose of carrying on the undertaking,

(f) a transfer—

(i) implementing the compulsory acquisition of land under any enactment,

(ii) by agreement, of land which could have been acquired compulsorily under any enactment,

25 (iii) implementing any right conferred by Part 2 (which provides for the community right to buy) of the Land Reform (Scotland) Act 2003 to buy land,

(iv) implementing missives for the sale and purchase of land concluded, or an option to acquire land which existed on a date on which no interest in buying the land was registered under paragraph 45,

30 (v) which requires, or which but for the provisions of section 14 of the Housing (Scotland) Act 1987 would require, the consent of the Scottish Ministers under subsection (5) or (7) of section 12 of that Act,

(vi) by a registered social landlord (within the meaning of the Housing (Scotland) Act 2010) in pursuance of the power conferred by section 107 of that Act,

35 (vii) vesting the land in a person for the purposes of any enactment relating to sequestration, bankruptcy, winding up or incapacity or to the purposes for which judicial factors may be appointed, or

(g) a transfer of land in consequence of—

- (i) the assumption or resignation or death of one or more of the partners in a partnership, or
- (ii) the assumption or resignation or death of one or more of the trustees of a trust.

(2) But, in the case of a transfer mentioned in any of paragraphs (a), (d) and (g) of sub-paragraph (1), the transfer is not an exempt transfer for the purposes of paragraph 48 if the transfer—

- (a) is or forms part of a scheme or arrangement or is one of a series of transfers, and
- (b) the main purpose or effect, or one of the main purposes or effects, of the scheme, arrangement or (as the case may be) series is the avoidance of the requirements or consequences of this Part.

(3) For the purposes of sub-paragraph (1)(d), companies are in the same group if they are, or are included in a number of, companies which, by virtue of section 170 of the Taxation of Chargeable Gains Act 1992, together form a group for the purposes of sections 171 to 181 of that Act.

(4) In sub-paragraph (1)(e), “statutory undertaker” is to be construed in accordance with section 214 of the Town and Country Planning (Scotland) Act 1997.

(5) The Scottish Ministers may by regulations modify (any or all of) sub-paragraphs (1) to (4).

Right to buy

50 (1) Sub-paragraph (2) applies where—

- (a) the owner of land comprising a small landholding, or an eligible creditor in relation to the land comprising the holding, gives notice to the small landholder of the holding of a proposal to transfer land, or
- (b) the owner or such a creditor takes steps with a view to the transfer of the land or any part of it and—
 - (i) the transfer is a transfer in respect of which notice of a proposal to transfer land is required to be given to the landholder, and
 - (ii) such notice has not been given.

(2) The landholder has the right to buy the land to which the proposed transfer relates (including any interest or rights comprised in the land) from the owner of the land or (as the case may be) the creditor.

(3) For the purposes of sub-paragraph (1)(b), an owner or eligible creditor takes steps with a view to a transfer of land when—

- (a) the land is, by or with the authority of the owner or creditor, advertised or otherwise exposed for sale,

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- (b) the owner or the creditor, or a person acting on behalf of the owner or the creditor, enters into negotiations with another person with a view to the transfer of the land, or
- (c) the owner or the creditor, or a person acting on behalf of the owner or the creditor, proceeds further with any proposed transfer of the land which was initiated prior to the date on which the landholder's interest in buying the land was registered.
- (4) References in sub-paragraph (3) to the owner of land include references to a person in whom the land has vested for the purposes of any such enactment as is mentioned in paragraph 49(1)(f)(vii).
- (5) Sub-paragraph (6) applies where—
- (a) a landholder has a right to buy land under sub-paragraph (2), and
- (b) despite the existence of that right, the owner or (as the case may be) the creditor transfers the land to a person other than the landholder.
- (6) The landholder has the right to buy the land (including any interests or rights comprised in the land) from the person to whom the land is transferred or is subsequently transferred.
- (7) The Scottish Ministers may by regulations modify sub-paragraphs (3) and (4).

Exercise of right to buy

- 51 (1) Where a small landholder has a right to buy land under paragraph 50(2) by virtue of paragraph 50(1)(a), the landholder may proceed in accordance with paragraph 53 to buy the land from the owner of the land or (as the case may be) the eligible creditor provided that notice is given under sub-paragraph (2).
- (2) Notice is given under this sub-paragraph if—
- (a) the landholder gives notice to the owner or (as the case may be) the creditor that the landholder intends to buy the land, and
- (b) the notice is given within the period of 28 days beginning with the day on which the landholder is given a notice of a proposal to transfer land.
- (3) Where a landholder has a right to buy under paragraph 50(2) by virtue of paragraph 50(1)(b), the landholder may proceed in accordance with paragraph 53 to buy the land from the owner or (as the case may be) the creditor provided that the landholder gives notice to the owner or, as the case may be, the creditor that the landholder intends to buy the land.
- (4) Where a landholder has a right to buy land under paragraph 50(6), the landholder may proceed in accordance with paragraph 53 to buy the land from the person to whom the land has been transferred or subsequently transferred provided that notice is given under sub-paragraph (5).
- (5) Notice is given under this sub-paragraph if—
- (a) the landholder gives notice to that person that the landholder intends to buy the land,

- (b) the notice is given within the period of 3 years beginning with the day on which the land is transferred to that person, and
 - (c) the landholder's tenancy is in force on the date on which the notice is given.
- 5 (6) If, at any time, the landholder does not intend to proceed, in accordance with paragraph 53, to buy the land, the landholder is to give notice of that fact to the person from whom the land would otherwise have been bought.
- (7) The right to buy mentioned in—
 - (a) sub-paragraph (1) is extinguished if the landholder does not give notice in accordance with sub-paragraph (2),
 - 10 (b) sub-paragraph (4) is extinguished if the landholder does not give notice in accordance with sub-paragraph (5),
 - (c) sub-paragraph (1), (3) or (4) is extinguished if the landholder gives notice under sub-paragraph (6).
- 15 (8) A landholder giving any notice under this paragraph must give a copy of the notice to the Keeper.

Effect of extinguishing right to buy

- 52 Where a small landholder's right to buy land is extinguished under paragraph 51(7) or 53(9), the landholder may acquire a subsequent right to buy the same land or any part of it under paragraph 50(2), but only if—
- 20 (a) the period of 12 months beginning with the day on which the right to buy is extinguished has expired, or
 - (b) before that period has expired—
 - (i) the land is transferred to another person, and
 - (ii) that person requires to give notice of a proposal to transfer land in relation to a subsequent transfer.
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Procedure for buying

- 53 (1) It is for the small landholder to make the offer to buy in exercise of the landholder's right to buy under paragraph 50.
- (2) The offer is to be at a price—
 - 30 (a) agreed between the landholder and the person from whom the land is to be bought (in this Part, "the seller"), or
 - (b) where there is no such agreement—
 - (i) payable by the landholder in accordance with paragraph 55(9), or
 - (ii) if the price is determined in an appeal under paragraph 57, as is so
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- (3) The offer must specify the date of entry and of payment of the price in accordance with sub-paragraph (4).

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- (4) The date of entry and of payment of the price is to be—
- (a) a date not later than 6 months after the date on which the landholder gave notice under paragraph 51 of the landholder's intention to buy,
 - (b) where the price payable by the landholder is the subject of an appeal under paragraph 57 which has not, within the period of 4 months beginning with the day on which the landholder gave such notice, been—
 - (i) determined, or
 - (ii) abandoned following agreement between the landholder and the seller,a date not later than 2 months after the appeal is so determined or (as the case may be) abandoned, or
 - (c) such later date as may be agreed between the landholder and the seller.
- (5) The offer may include such other reasonable conditions as are necessary or expedient to secure the efficient progress and completion of the transfer.
- (6) If the landholder has not, within the period fixed by or agreed under sub-paragraph (4), done any of the things mentioned in sub-paragraph (7), the seller may apply to the Land Court for an order under sub-paragraph (8).
- (7) The things are—
- (a) concluding missives with the seller for the sale of the land to the landholder, or
 - (b) if the landholder has not so concluded missives, taking all steps which the landholder could reasonably have taken in the time available towards so concluding missives.
- (8) An order under this sub-paragraph may—
- (a) direct the landholder—
 - (i) to conclude missives with the seller within such period as may be specified in the order, and
 - (ii) to take such remedial action for the purpose of so concluding missives as may be so specified, and
 - (b) direct the landholder and seller to incorporate into the missives any term or condition in respect of the sale of the land as may be so specified.
- (9) The right to buy mentioned in sub-paragraph (1) is extinguished if—
- (a) the landholder fails to comply with an order under sub-paragraph (8), or
 - (b) where the seller has not applied for an order under that sub-paragraph, the landholder has not (having regard to the period fixed by or agreed under sub-paragraph (4)) within a reasonable period from the acquiring by the landholder of the right to buy otherwise concluded missives with the seller for the sale of the land to the landholder.

Appointment of valuer

- 54 (1) Where the price to be paid for land is not agreed between the seller and the small landholder as mentioned in paragraph 53(2)(a), the land is, except where sub-paragraph (2) applies, to be valued by a valuer appointed by agreement between the seller and the landholder or by a person nominated by them.
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- (2) This sub-paragraph applies where the land in respect of which the landholder is exercising a right to buy forms part of an estate comprising other land in respect of which any other landholder has given notice under paragraph 51 of the landholder's intention to buy.
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- (3) Where sub-paragraph (2) applies, the land mentioned in that sub-paragraph is to be valued by—
- (a) a valuer appointed by agreement between—
- (i) the seller, and
- (ii) at least half of the landholders mentioned in that sub-paragraph, or
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- (b) a person nominated by the persons mentioned in paragraph (a)(i) and (ii).
- (4) Where there is no agreement as to the appointment of a valuer under sub-paragraph (1) or (3), the valuer is to be appointed by the Land Court or by a person nominated by the Court.
- (5) In this Part, “valuer” includes two valuers with an overseer.

20 *Valuation of the land*

- 55 (1) A valuer appointed under paragraph 54 is to assess the value of the land in respect of which a small landholder's right to buy under paragraph 50 is being exercised as at—
- (a) the date of notice under paragraph 48 of the seller's proposal to transfer the land, or
- 25
- (b) where no such notice was given, the date on which the landholder gave notice under paragraph 51 of the landholder's intention to buy the land.
- (2) The valuer is to assess the value of the land having regard to the value that would be likely to be agreed between a reasonable seller and buyer of such land—
- (a) assuming that the seller and buyer are, as respects the transaction, willing, and
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- (b) where the buyer is a sitting small landholder.
- (3) In assessing the value of the land under sub-paragraph (2), the valuer is to take account of—
- (a) in so far as a seller and a buyer of the land (assuming that they are, as respects the transaction, willing) would do so, any factor attributable to the known existence of a person who (not being the landholder who is exercising a right to buy the land) would be willing to buy the land at a price higher than other persons because of a characteristic of the land which relates peculiarly to that person's interest in buying it,
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- (b) when the seller would in the normal course of events have been likely to recover vacant possession of the land from the landholder,
- (c) the terms and conditions of any lease of sporting interests affecting the land, and
- 5 (d) any moveable property belonging to the owner of the land which is, by agreement between the landholder and the owner, to be sold with, and valued along with, the land.
- (4) In assessing the value of the land under sub-paragraph (2), the valuer is to take no account of—
- 10 (a) the absence of the period of time during which the land would, on the open market, be likely to be advertised and exposed for sale,
- (b) any factor attributable to any use of the land which is or would be unlawful,
- (c) any increase in the value of the land resulting from improvements to the extent that the landholder would be entitled to compensation in respect of those improvements upon renouncing the tenancy of the small landholding,
- 15 (d) any increase in the value of the land resulting from the use of any of the land, or changes to the land, for a purpose other than cultivation of the land,
- (e) any reduction in the value of the land—
- (i) as a result of any dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the landholder, or
- 20 (ii) resulting from the use of any of the land, or changes to the land, for a purpose other than cultivation of the land, or
- (f) any fixed equipment owned by the landholder.
- (5) Where land in respect of which the right to buy is being exercised forms part of an estate, the valuer is, in addition to assessing the value of the land under sub-paragraph (2), to assess the value representing the difference between—
- 25 (a) the value of the estate were the estate being sold by the seller to a person other than the landholder, and
- (b) the value of the remainder of the estate (that is to say, the estate less the land in respect of which the right to buy is being exercised) were the remainder being sold by the seller to such a person.
- 30 (6) Where two or more parts of an estate are being bought in exercise of a right to buy under this Part—
- (a) the valuer is to assess—
- (i) the value of each of those parts under sub-paragraph (2), and
- 35 (ii) the difference between the values mentioned in paragraphs (a) and (b) of sub-paragraph (5),
- as at the last date on which notice of intention to buy was given under paragraph 51 in respect of those parts of the estate,

- (b) the valuer may, for the purpose of valuation under sub-paragraph (5), apportion to each such part of the estate (or re-apportion if for any reason the sale of any such part does not proceed) such amount representing the reduction in the value of the estate as the valuer considers equitable.
- 5 (7) The Scottish Ministers may issue guidance (either generally or in respect of a particular description of case) for the purposes of valuation under this paragraph.
- (8) An estate is to be treated, for the purposes of sub-paragraphs (5) and (6) and paragraph 56, as comprising—
 - 10 (a) any land forming part of the estate and which is being bought in exercise of a right to buy under this Part, and
 - (b) any other land forming part of the estate offered for sale by the seller at the same time as the land mentioned in paragraph (a).
- (9) For the purposes of paragraph 53(2)(b)(i), the price payable by a landholder is—
 - 15 (a) the value assessed under sub-paragraph (2), or
 - (b) where the land forms part of an estate, the greater of the values assessed under—
 - (i) that sub-paragraph, and
 - (ii) sub-paragraph (5).

Valuation etc.: further provision

- 56 (1) A valuer appointed under paragraph 54 is—
 - 20 (a) to invite the persons mentioned in sub-paragraph (2) to make written representations about the matters mentioned in sub-paragraph (3), and
 - (b) to have regard to any such representations.
- (2) The persons are—
 - 25 (a) the seller and the small landholder to whom the assessment under paragraph 55 relates, and
 - (b) where the land to which the assessment relates forms part of an estate, any other person the valuer considers to have an interest in the estate.
- (3) The matters are—
 - 30 (a) the valuation of the land under paragraph 55, and
 - (b) where the land forms part of an estate, any valuation of the estate (and any apportionment of a reduction in the value of the estate) under that paragraph.
- (4) The valuer may, for the purposes of any assessment under paragraph 55—
 - (a) enter onto land, and
 - (b) make any reasonable request of the seller and landholder.
- 35 (5) The valuer must, within the period of 6 weeks beginning with the day on which the valuer is appointed, give the seller and the landholder a notice in writing specifying the

price payable by the landholder under paragraph 55(9) and setting out how the price was calculated.

- (6) The expenses of the valuer accrued in carrying out the valuer's functions under paragraph 55 and this paragraph are to be—
- 5 (a) met by the landholder, or
- (b) where sub-paragraph (2) of paragraph 54 applies, shared equally between the landholders mentioned in that sub-paragraph.
- (7) The seller is liable to the landholder for any expenses met by the landholder by virtue of sub-paragraph (6) where—
- 10 (a) the Land Court has made an order under paragraph 53(8),
- (b) the landholder to whom the order applies has complied with the order, and
- (c) the seller does not proceed with the sale of the land to the landholder.
- (8) The Scottish Ministers may by regulations make further provision for or in connection with the matters provided for in this paragraph and paragraphs 54 and 55.

15 *Appeal to Lands Tribunal against valuation*

- 57 (1) The seller or the small landholder to whom a valuation carried out under paragraph 55 relates may appeal to the Lands Tribunal against the valuation.
- (2) An appeal under this paragraph must—
- 20 (a) state the grounds on which it is being made, and
- (b) be lodged within the period of 21 days beginning with the date of the notice under paragraph 56(5).
- (3) In an appeal under this paragraph, the Lands Tribunal may—
- 25 (a) reassess any value of the land (and any factor affecting the value) or of an estate (and how any reduction in the value of an estate is to be apportioned), and
- (b) for the purposes of paragraph 53(2)(b)(ii), determine the price.
- (4) The valuer whose valuation is appealed against may be a witness in the appeal proceedings.
- (5) In the appeal proceedings, in addition to the seller and the landholder, the following persons are entitled to be heard—
- 30 (a) where the seller is—
- (i) a creditor in a standard security, the owner of the land,
- (ii) the owner of the land, any creditor in a standard security over the land or any part of it,
- (b) where the land forms part of an estate—
- 35 (i) any creditor in a standard security over any other land forming part of the estate,
- (ii) any landholder, or other tenant, of any such land.

- (6) The Lands Tribunal is to give reasons for its decision on an appeal under this paragraph and is to issue a written statement of these reasons.
- (7) The decision of the Lands Tribunal in an appeal under this paragraph is final.

Referral of certain matters by Lands Tribunal to Land Court

- 5 58 (1) This paragraph applies where, in an appeal before the Lands Tribunal under paragraph 57, an issue of law arises which may competently be determined by the Land Court by virtue of section 1(6) of the Scottish Land Court Act 1993 or this Act.
- (2) The Tribunal is to refer the issue to the Land Court for determination unless the Tribunal considers that it is not appropriate to do so.

10 *Registration of small landholder's interest: power to modify provisions*

- 59 (1) The Scottish Ministers may by regulations make provision for or in connection with the registration under this Part of small landholders' interests in buying the land comprised in their landholdings.
- 15 (2) In particular (but without limit to that generality), regulations under sub-paragraph (1) may—
 - (a) make provision about—
 - 20 (i) the manner in which a small landholder notifies the owner of the land of the landholder's interest in buying the land,
 - (ii) the procedure by which that interest is (or may be) registered,
 - (iii) how an application for registration and entry in the Register may be challenged,
 - (iv) the effect of registration,
 - (v) the Keeper's functions in respect of registration,
 - (vi) the updating or correction of entries in the Register,
 - 25 (vii) the consequences of an application for registration, or an entry in the Register, being inaccurate in a material regard,
 - (viii) the expiry or cancellation of an entry in the Register,
 - (b) modify paragraphs 44 to 50,
 - (c) if the Scottish Ministers consider it necessary or expedient, make consequential provision which modifies the other provisions in this Part.
- 30 (3) Before laying a draft of a Scottish statutory instrument containing regulations under sub-paragraph (1) before the Scottish Parliament, the Scottish Ministers must consult—
 - (a) the Keeper, and
 - 35 (b) such other persons as the Scottish Ministers consider are likely to have an interest in the registration of interests to buy land under this Part.

Interpretation of Part

60 In this Part—

“eligible creditor” has the meaning given by paragraph 48(6),

“Keeper” has the meaning given by paragraph 44(1),

5 “notice of a proposal to transfer land” means notice given under paragraph 48(2),

“Register” has the meaning given by paragraph 44(1),

“seller” has the meaning given by paragraph 53(2)(a).

PART 6

CONSEQUENTIAL MODIFICATIONS

10 *Disapplication of existing law*

61 The following enactments are disappplied in relation to small landholdings—

(a) in the Crofters Holdings (Scotland) Act 1886—

(i) section 5 (rent altered by agreement),

(ii) section 6 (fixed rent),

15 (iii) section 7 (renunciation of tenancy),

(iv) section 8 (compensation to small landholder for improvements on removal),

(v) section 10 (principle of valuation),

(vi) section 16 (bequest of holding),

(vii) section 20 (procedure in fixing fair rent),

20 (viii) the schedule (permanent improvements),

(b) the Crofters Holdings (Scotland) Act 1887,

(c) in the Small Landholders (Scotland) Act 1911—

(i) section 7(6) (rent for new small landholders),

(ii) section 7(7) (loans to new small landholders),

25 (iii) section 8 (provisions regulating loans to landholders),

(iv) section 9 (loans for buildings),

(v) section 13 (present rent),

(vi) section 21 (assignment of holding),

(vii) section 23 (arrears of rent to be set off against compensation for
 30 improvements),

(d) in the Small Landholders and Agricultural Holdings (Scotland) Act 1931—

(i) section 1 (compensation to an outgoing holder),

(ii) section 5 (provisions as to loans for buildings),

- (iii) section 10 (record of holding),
- (iv) section 11 (assessment of compensation for improvements prior to renunciation),
- (v) section 12 (amendment of 1886 Act in relation to compensation),
- (vi) section 22 (renunciation of tenancies).

The Small Landholders (Scotland) Act 1911

62 (1) The Small Landholders (Scotland) Act 1911 is modified as follows.

- (2) In section 10(1) (additional statutory conditions), after “cultivation of the holding” insert “, and without prejudice also to the ability to make use of the land for a diverse purpose under Part 2 of the schedule of the Land Reform (Scotland) Act 2025”.
- (3) In section 26(3)(a) (supplementary provisions), for “present rent of which within the meaning of this Act” substitute “rent of which, in accordance with Part 1 of the schedule of the Land Reform (Scotland) Act 2025,”.

The Small Landholders and Agricultural Holdings (Scotland) Act 1931

63 (1) The Small Landholders and Agricultural Holdings (Scotland) Act 1931 is modified as follows.

- (2) In section 1(2) (compensation to an outgoing holder), for “aforesaid” substitute “is provided for in paragraph 34 of the schedule of the Land Reform (Scotland) Act 2025,”.
- (3) In section 3 (removal of landholder), the words from “and where a landholder” to the end are repealed.

The Succession (Scotland) Act 1964

64 (1) The Succession (Scotland) Act 1964 is modified as follows.

- (2) In section 16 (provisions relating to leases)—
 - (a) in subsection (2)(c), for “section 16 of the Act of 1886” substitute “paragraph 23 or 24 of the schedule of the 2025 Act”,
 - (b) in subsection (2A), after “1991 Act tenancy” insert “or small landholding”,
 - (c) in subsection (3)—
 - (i) in paragraph (b)(i)—
 - (A) for the words from “a petition” to “that court,” substitute “an application or appeal to the Land Court under section 12A or 12B of the 1991 Act or paragraph 23 or 24 of the schedule of the 2025 Act”,
 - (B) the words “the petition,” are repealed,
 - (ii) in the closing words, for “the next following subsection” substitute “subsection (4)”,
 - (d) in subsection (4), for “last foregoing subsection” substitute “subsection (3)”,

- (e) in subsection (8)—
- (i) the words “paragraphs (a) to (h) of section 16 of the Act of 1886,” are repealed,
 - (ii) after “2003 Act,” insert “paragraphs 22(1), 23 and 24 of the schedule of the Land Reform (Scotland) Act 2025,”,
- (f) in subsection (8A)(a), after “tenancy” insert “or small landholding”,
- (g) in subsection (9)—
- (i) the definition of “the Act of 1886” is repealed,
 - (ii) after the definition of “the 2003 Act” insert—
- “the 2025 Act” means the Land Reform (Scotland) Act 2025,”,
- (iii) after the definition of “lease” insert—
- “small landholding” is to be construed in accordance with paragraph 66 of the schedule of the 2025 Act.”.
- (3) In section 29 (right of tenant to bequeath interest under lease), in subsection (2)—
- (a) the words “section 16 of the Crofters Holdings (Scotland) Act 1886 or” are repealed,
 - (b) after “(asp 11)” insert “or paragraph 23 or 24 of the schedule of the Land Reform (Scotland) Act 2025”.

PART 7

GENERAL AND INTERPRETATION

Restriction on contracting out of statutory provision relating to small landholdings

65 Section 25 of the Small Landholders and Agricultural Holdings (Scotland) Act 1931 (voiding of agreement inconsistent with the Landholders Acts) applies to this schedule as it applies to the Landholders Acts.

Interpretation

66 In this schedule—

“Land Court” means the Scottish Land Court,

“Landholders Acts” means the Small Landholders (Scotland) Acts 1886 to 1931,

“Lands Tribunal” means the Lands Tribunal for Scotland,

“small landholder” means a person who is a small landholder for the purposes of the Landholders Acts, and small landholding is to be construed accordingly.

Land Reform (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the management and transfer of large holdings of land; to require the Scottish Ministers to make publicly available a model lease for environmental purposes; to modify the law on small landholdings and agricultural holdings; and for connected purposes.

Introduced by: Mairi Gougeon
On: 13 March 2024
Bill type: Government Bill

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