


# Land Reform (Scotland) Act 2025

2025 asp 15

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# Land Reform (Scotland) Act 2025

**2025 asp 15**

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# Land Reform (Scotland) Act 2025

**2025 asp 15**

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 5th November 2025 and received Royal Assent on 16th December 2025**

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.

## PART 1

LAND REFORM

## CHAPTER 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—

**"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 44C, 44D and 44E.

(3) Regulations under this section may impose obligations only in connection with land to which section 44F applies.

(4) Regulations under this section are to be informed by the land rights and responsibilities statement published in accordance with Part 1.

(5) The Scottish Ministers must, before laying a draft of any regulations under this section, consult—

(a) the Land and Communities Commissioner, and

(b) such other persons as they consider appropriate.

**44B Power to make further provision about obligations imposed by virtue of section 44A**

(1) The Scottish Ministers may by regulations make further provision in connection with obligations imposed by virtue of section 44A.

(2) The further provision that may be made under subsection (1) includes—

(a) the conferral of functions on public bodies,

(b) provision requiring the payment of reasonable fees.

(3) The Scottish Ministers must, before laying a draft of any regulations under this section, consult—

(a) the Land and Communities Commissioner, and

(b) such other persons as they consider appropriate.

**44C Regulations to include obligation to have land management plan**

(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 and tenants (including, where relevant, crofters and small landholders) 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.

(2) Subsection (1) does not require the obligation it describes to be imposed in connection with all land to which section 44F applies.

(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) the steps taken by the owner to engage with communities and tenants (including, where relevant, crofters and small landholders) in relation to the development of the plan,

(d) how that engagement influenced the development of the plan,

(e) how, in relation to the land, the owner is complying or intends to comply with—

(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,

(f) how the owner is managing or intends to manage the land in a way that contributes towards—

(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 biodiversity,

(g) how the owner is having regard to, or intends to have regard to, any local place plan in relation to the land (in whole or in part) registered with a planning authority in accordance with schedule 19 of the Town and Country Planning (Scotland) Act 1997.

(4) Regulations under section 44A may, in particular, include provision about the manner in, and the period of time within, which the owner of land may or must comply with obligations imposed in accordance with subsection (1), for example—

(a) provision requiring the owner to ensure that a land management plan is given to another person in order that all land management plans can be published on a single website,

(b) provision about the timescales for compliance in circumstances where ownership of land is transferred.

(5) Subsection (6) applies where—

(a) in accordance with section 29(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 a draft Scottish statutory instrument is laid before the Scottish Parliament containing either—

(i) regulations imposing the obligation described in subsection (1), or

(ii) regulations modifying the obligation imposed in accordance with that subsection, and

(b) the effect of those regulations would be that the obligation imposed in accordance with subsection (1) would not apply in relation to all of the land to which section 44F applies.

(6) At the same time as laying the draft instrument mentioned in subsection (5) before the Parliament, the Scottish Ministers must also lay before the Parliament a statement of their reasons for not imposing the obligation described in subsection (1) in relation to all of the land to which section 44F applies.

**44D 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 44F applies.

(3) Subsection (4) applies where—

(a) in accordance with section 29(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 a draft Scottish statutory instrument is laid before the Scottish Parliament containing either—

(i) regulations imposing the obligation described in subsection (1), or

(ii) regulations modifying the obligation imposed in accordance with that subsection, and

(b) the effect of those regulations would be that the obligation imposed in accordance with subsection (1) would not apply in relation to all of the land to which section 44F applies.

(4) At the same time as laying the draft instrument mentioned in subsection (3) before the Parliament, the Scottish Ministers must also lay before the Parliament a statement of their reasons for not imposing the obligation described in subsection (1) in relation to all of the land to which section 44F applies.

(5) In this section, "community body" means a community body within the meaning of section 34 of the Land Reform (Scotland) Act 2003.

**44E Regulations to include obligation to consider crofting request**

(1) Regulations under section 44A must require the owner of land to give consideration to a reasonable request from a community body for the landowner to apply under section 3A(1) of the 1993 Act to have constituted as a croft—

(a) the whole of the land (provided it is all in a crofting area), or

(b) any part of the land that is in a crofting area.

(2) Subsection (1) does not require the obligation it describes to be imposed in connection with all land to which section 44F applies.

(3) In this section—

"1993 Act" means the Crofters (Scotland) Act 1993,

"community body" means—

(a) a community body within the meaning of section 34 of the Land Reform (Scotland) Act 2003, or

(b) a crofting community body within the meaning of section 71 of that Act,

"crofting area" means—

(a) any of the crofting counties within the meaning of section 61 of the 1993 Act, or

(b) any area designated by virtue of section 3A(1)(b) of that Act.

**44F Land in relation to which obligations may be imposed**

(1) This section applies to land that is—

(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) two or more single holdings form a composite holding if the conditions in subsection (3) are met.

(3) The conditions referred to in subsection (2)(b) are that—

(a) each of the single holdings in question is contiguous with at least one of the others, and

(b) the owner of one single holding ("holding A")—

(i) is an owner, or connected to the owner, of another single holding ("holding B") with which holding A is contiguous, and

(ii) where there are more than two single holdings, is also the owner of, or connected to the owner of, every other single holding.

(4) For the purposes of subsection (2)(a), an area of land is to be treated as being contiguous with another if any part of the area is within 250 metres of any part of the other.

(5) For the purposes of subsection (3)—

(a) a holding is contiguous with another if a boundary of the holding is (wholly or partly) contiguous with a boundary of the other,

(b) a boundary of a holding is to be treated as being contiguous with a boundary of another if any part of the boundary is within 250 metres of the other,

(c) references to the owner of a holding, in a case where the holding is owned by more than one person (whether jointly or in common), are to be read as references to an owner of the holding,

(d) whether a person is connected to another is to be determined in accordance with schedule A1.

(6) In this section, "land" includes—

(a) the foreshore, being the land between the high and low water marks of ordinary spring tides, and

(b) other land covered with water except the seabed.

**44G Guidance about obligations imposed under section 44A**

(1) The Scottish Ministers must issue guidance about obligations imposed by regulations under section 44A.

(2) Before issuing guidance under subsection (1), the Scottish Ministers must consult—

(a) the Land and Communities Commissioner, and

(b) such other persons as they consider appropriate.

(3) The Scottish Ministers must make publicly available the latest version of any guidance issued under subsection (1) as soon as practicable after issuing it.

*Enforcement of obligations*

**44H 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) a community council, if the land to which the report of the alleged breach relates falls wholly or partly within its area,

(c) the Crofting Commission, if the land to which the report of the alleged breach relates falls (wholly or partly) within the crofting counties or an area that has been designated by order under section 3A(1)(b) of the Crofters (Scotland) Act 1993 by the Scottish Ministers,

(d) a grazings committee or a grazings constable, if the land to which the report of the alleged breach relates falls (wholly or partly) within the common grazing in relation to which the committee or, as the case may be, the constable is appointed under section 47 of the Crofters (Scotland) Act 1993,

(e) Highlands and Islands Enterprise, if the land to which the report of the alleged breach relates falls (wholly or partly) within the area in relation to which it exercises functions in accordance with section 21(1) of the Enterprise and New Towns (Scotland) Act 1990,

(f) Historic Environment Scotland,

(g) a local authority, if the land to which the report of the alleged breach relates falls (wholly or partly) within its area,

(h) a National Park authority, if the land to which the report of the alleged breach relates falls (wholly or partly) within the National Park in relation to which it exercises its functions,

(i) Scottish Enterprise,

(j) the Scottish Environment Protection Agency,

(k) Scottish Natural Heritage,

(l) South of Scotland Enterprise, if the land to which the report of the alleged breach relates falls (wholly or partly) within the South of Scotland.

(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.

(4) In this section—

"community council" means a community council established by virtue of Part IV of the Local Government (Scotland) Act 1973,

"crofting counties" is to be construed in accordance with section 61 of the Crofters (Scotland) Act 1993,

"National Park authority" means an authority on which functions have been conferred by the National Parks (Scotland) Act 2000 in relation to an area designated as a National Park in an order made under section 7 of that Act,

"South of Scotland" is to be construed in accordance with section 21 of the South of Scotland Enterprise Act 2019,

"South of Scotland Enterprise" means the body corporate established by section 1 of the South of Scotland Enterprise Act 2019.

**44I Commissioner's investigation of an alleged breach**

(1) The Land and Communities Commissioner must investigate an alleged breach reported under section 44H if satisfied—

(a) that—

(i) the report contains sufficient information to proceed to an investigation, or

(ii) sufficient information to proceed to an investigation has been provided in response to a request under subsection (2), and

(b) that 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)(a) or, as the case may be, (1)(b) 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,

(c) the Commissioner considers that a request under subsection (2) for additional information would not provide sufficient information to proceed to an investigation, or

(d) the alleged breach is one in relation to which a fine has been imposed under section 44K.

(4) Where the Commissioner must, in accordance with this section, 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.

(5) Nothing in this section precludes the Commissioner, despite no report having been submitted under section 44H(1), from—

(a) investigating whether an obligation imposed by regulations under section 44A might have been breached,

(b) proceeding to investigate an alleged breach,

where the Commissioner considers that it would be appropriate in the circumstances to do so.

(6) Where subsection (5) applies and the Commissioner decides to investigate the alleged breach, the Commissioner must—

(a) prepare a report setting out—

(i) details of the alleged breach,

(ii) the provision of the regulations imposing the obligation that is alleged to have been breached, and

(b) send to the person alleged to have committed the breach—

(i) a copy of that report, and

(ii) a request for the person's response to the report within a period specified by the Commissioner.

(7) When complying with an obligation under subsection (4)(b)(i) or (6)(b)(i), the Commissioner may do so by providing the report in a redacted form if—

(a) the report contains information about a person, other than the person that submitted the report, which is relevant to the investigation of the alleged breach to which the report relates, and

(b) the disclosure of that personal information in the report could result in that person being identified.

**44J 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.

**44K Sanction for breach of obligation**

(1) Having determined, following an investigation under this Chapter (other than an investigation under section 44M), 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 reach an agreement with the Commissioner about what the person must do to remedy the breach and the person either—

(i) has refused to reach an agreement, or

(ii) having reached 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 £40,000.

**44L Appeal against fine**

(1) A person on whom a fine is imposed under section 44J, 44K or 44M 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 44K, having overturned the fine, the Tribunal may remit the matter to the Land and Communities Commissioner to give the person concerned an opportunity to reach 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 reach an agreement with the Commissioner about what the person must do to remedy the breach in question, or

(b) reaches such an agreement but fails to fulfil it,

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

**44M Enforcement notice**

(1) This section applies where a fine has been imposed under section 44K and either—

(a) the period specified in section 44L(2) in respect of that fine has expired and no appeal has been made, or

(b) if an appeal against that fine has been made under section 44L, either—

(i) the appeal has been withdrawn, or

(ii) the appeal has been determined, the existence of the breach has been upheld, and the Tribunal has not remitted the matter to the Land and Communities Commissioner under section 44L(5).

(2) The Land and Communities Commissioner may investigate whether the breach in respect of which the fine was imposed has been remedied.

(3) Having determined, following an investigation under subsection (2), that the breach has not been remedied, the Land and Communities Commissioner may serve notice ("an enforcement notice") on the person that committed the breach specifying—

(a) the obligation in relation to which the person remains in breach,

(b) the steps that must be taken to remedy the breach,

(c) the period within which those steps must be taken, which period must not be less than 28 days beginning with the day on which the enforcement notice is received, and

(d) that a further fine may be imposed on the person if the breach is not remedied within that period.

(4) Subject to section 44N, on expiry of the period specified in the enforcement notice in accordance with subsection (3)(c), the Land and Communities Commissioner may—

(a) investigate whether the steps specified in the enforcement notice have been taken and the breach remedied,

(b) if satisfied that the breach has not been remedied, impose, by notice, a fine on the person that committed the breach.

(5) The amount of a fine imposed under this section is to be determined by the Commissioner, but must not exceed £40,000.

(6) This section (apart from subsection (1)) applies where a fine has been imposed under subsection (4)(b) as it applies where a fine has been imposed under section 44K, and either—

(a) the period specified in section 44L(2) in respect of that fine has expired and no appeal has been made, or

(b) if an appeal has been made against that fine under section 44L, either—

(i) the appeal has been withdrawn, or

(ii) the appeal has been determined and the failure to remedy the breach has been upheld.

**44N Appeal against enforcement notice**

(1) A person on whom an enforcement notice is served under section 44M may appeal to the Lands Tribunal for Scotland, on a ground specified in subsection (2), against—

(a) the decision to serve the enforcement notice,

(b) the steps specified in the enforcement notice,

(c) the time period specified in the enforcement notice.

(2) The grounds are that the matter being appealed against—

(a) was based on an error of fact,

(b) was wrong in law,

(c) was unfair or unreasonable for any reason.

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

(4) Where an appeal under subsection (1) is made, the enforcement notice is suspended from the day on which the appeal is made until the day on which it is determined or withdrawn.

(5) On an appeal under subsection (1), the Tribunal may overturn, confirm, or vary the enforcement notice.

*Further provision in connection with enforcement*

**44O Notice imposing fine**

(1) A notice imposing a fine under section 44J, 44K or 44M 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,

(e) information about the right to appeal under section 44L, 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.

**44P Further provision about fines**

(1) Money received by the Commission in payment of a fine imposed under section 44J, 44K or 44M must be paid into the Scottish Consolidated Fund.

(2) The Commission may recover any fine imposed under any of those sections as a civil debt.

**44Q Confidentiality of information obtained in investigation**

(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—

(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,

(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.

(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—

(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 and schedule A1 by regulations*

**44R Powers to modify Chapter and schedule A1**

(1) The Scottish Ministers may by regulations modify this Chapter and schedule A1 so as to change (or clarify)—

(a) the land in relation to which obligations may be imposed by regulations under section 44A,

(b) the list of persons in section 44H(2),

(c) the maximum amount of a fine which may be imposed under section 44K(1) or 44M(4)(b).

(2) The Scottish Ministers must, before laying a draft of any regulations under this section, consult such persons as they consider appropriate.".

(5) In section 126 (subordinate legislation), in subsection (3), after paragraph (b) insert—

"(ba) section 44A,

(bb) section 44B,

(bc) section 44R,".

(6) Insert—

(a) the following before schedule 1 as schedule A1—

"SCHEDULE A1
*(introduced by section 44F)*

MEANING OF CONNECTED PERSON IN CHAPTER 2 OF PART 4

1 This schedule makes provision for determining whether one person is connected to another for the purposes of section 44F(3)(b).",

(b) after paragraph 1 of schedule A1, the text set out in schedule 1.

**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 46L 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.

(4) Ministers must issue guidance in relation to the making of a request under subsection (2).

(5) Ministers must make publicly available the latest version of any guidance issued under subsection (4) as soon as practicable after issuing it.

*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 46L 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 (but see section 46H(2)).

(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 46L 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.

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

(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 they have decided whether they are or are not required to impose such a prohibition.

(3) If Ministers decide that they are required to impose a prohibition on the transfer of the land under section 46F, they must not give notice under subsection (1) before giving notice under section 46F(2) intimating the imposition of that prohibition.

(4) The giving of notice under subsection (1) is not to be delayed by virtue of subsection (2) beyond the period of 60 days beginning with the day that Ministers fulfilled their duty under section 46D to publicise the possible transfer of the land.

(5) Any failure to comply with the time limit specified in subsection (4) does not affect the validity of anything done under this section.

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

(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).

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

(a) is imposed when Ministers give notice intimating that it is imposed, and

(b) expires at the end of the period of 70 days beginning with the day it is imposed.

(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"),

(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),

(b) a transfer to which subsection (1) of section 40 does not apply by virtue of subsection (4) of that section, or

(c) a transfer of a kind exempted by section 46M(2).

(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—

(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.

(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.

(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*

**46J Requirement for declaration of compliance with Chapter**

(1) Where land to which section 46L applies is being transferred, the transferor is to incorporate in the deed giving effect to the transfer a declaration in prescribed form confirming that the transfer is not in contravention of any prohibition under this Chapter.

(2) A declaration under subsection (1) is not required if a declaration under section 46K is required in relation to the land being transferred.

**46K 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—

(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

(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*

**46L Land affected by the prohibitions**

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

(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) two or more single holdings form a composite holding if the conditions in subsection (4) are met.

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

(a) each of the single holdings in question is contiguous with at least one of the others, and

(b) the owner of one single holding ("holding A")—

(i) is an owner, or connected to the owner, of another single holding ("holding B") with which holding A is contiguous, and

(ii) where there are more than two single holdings, is also the owner of, or connected to the owner of, every other single holding.

(5) For the purposes of subsection (3)(a), an area of land is to be treated as being contiguous with another if any part of the area is within 250 metres of any part of the other.

(6) For the purposes of subsection (4)—

(a) a holding is contiguous with another if a boundary of the holding is (wholly or partly) contiguous with a boundary of the other,

(b) a boundary of a holding is to be treated as being contiguous with a boundary of another if any part of the boundary is within 250 metres of the other,

(c) references to the owner of a holding, in a case where the holding is owned by more than one person (whether jointly or in common), are to be read as references to an owner of the holding,

(d) whether a person is connected to another is to be determined in accordance with schedule 1A.

(7) In this section, "land" includes—

(a) the foreshore, that is to say, the land between the high and low water marks of ordinary spring tides, and

(b) other land covered with water except the seabed.

*Modification of operation of Chapter 2A by regulations*

**46M Powers to modify Chapter and schedule 1A, etc.**

(1) Ministers may by regulations modify this Chapter and schedule 1A so as to change (or clarify)—

(a) the period specified in section 46F(2)(b),

(b) the land to which section 46L applies.

(2) Ministers may by regulations—

(a) specify transfers of land to which section 46B(1) and a prohibition imposed under section 46F(1) do not apply, and

(b) in consequence of provision made by paragraph (a), modify sections 46J and 46K.

(3) Ministers must, before laying a draft of any regulations under this section, consult such persons as they consider appropriate.".

**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 (7).

(4) In section 36 (register of community interests in land), after subsection (6) insert—

"(6A) Ministers may by regulations—

(a) modify this section to change the information and documents required to be in the Register,

(b) modify this Part to impose duties on themselves to provide information and documents to the Keeper for the purposes of entering them in the Register.".

(5) In section 37 (registration of interest in land), in subsection (19), after "39(2)(b)" insert "or 39ZA(2)(b)".

(6) In section 63 (compensation), for subsection (1)(c) substitute—

"(c) attributable to—

(i) the prohibition under section 46B; or

(ii) a prohibition imposed under section 37(5)(e) or 46F;".

(7) In section 98 (general and supplementary provisions)—

(a) in subsection (1), in the definition of "prescribed", after "Ministers" insert "and related expressions are to be construed accordingly",

(b) in subsection (5)—

(i) for "36" substitute "36(6)",

(ii) after "(4B)," in the first place in which it appears, insert "36(6A),",

(iii) after "38(2B)," insert "46M,".

(8) The Land Registration etc. (Scotland) Act 2012 is modified by subsection (9).

(9) 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—

"(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 46K".

**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**

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 67H 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 for declaration of compliance with Part**

(1) Where land to which section 67H applies is being transferred, the transferor is to incorporate in the deed giving effect to the transfer a declaration in prescribed form confirming that the transfer is not in contravention of any prohibition under this Part.

(2) A declaration under subsection (1) is not required if a declaration under section 67F is required in relation to the land being transferred.

**67F 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*

**67G Lotting decision**

(1) In this Part—

(a) a reference to a lotting decision is to a decision by Ministers under section 67N, 67O or 67T 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 67W, on the day after the expiry of the period specified in section 67W(3),

(b) where an appeal against it is made under section 67W, 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 67R(2)(a),

(d) the decision is quashed following an appeal under section 67W.

(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 67N, 1 year later,

(b) in the case of a lotting decision under section 67O or 67T, 5 years later.

**67H 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—

"land" includes—

(a) the foreshore, that is to say, the land between the high and low water marks of ordinary spring tides, and

(b) other land covered with water except the seabed,

"notice of intention to transfer" means a notice under section 46C or 48.

**67I Large holding of land**

(1) In section 67H(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) two or more single holdings form a composite holding if the conditions in subsection (3) are met.

(3) The conditions referred to in subsection (2)(b) are that—

(a) each of the single holdings in question is contiguous with at least one of the others, and

(b) the owner of one single holding ("holding A")—

(i) is an owner, or connected to the owner, of another single holding ("holding B") with which holding A is contiguous, and

(ii) where there are more than two single holdings, is also the owner of, or connected to the owner of, every other single holding.

(4) For the purposes of subsection (2)(a), an area of land is to be treated as being contiguous with another if any part of the area is within 250 metres of any part of the other.

(5) For the purposes of subsection (3)—

(a) a holding is contiguous with another if a boundary of the holding is (wholly or partly) contiguous with a boundary of the other,

(b) a boundary of a holding is to be treated as being contiguous with a boundary of another if any part of the boundary is within 250 metres of the other,

(c) references to the owner of a holding, in a case where the holding is owned by more than one person (whether jointly or in common), are to be read as references to an owner of the holding.

### 67J Connected persons

(1) Whether a person is connected to another for the purposes of the provisions mentioned in subsection (2) is to be determined in accordance with schedule 1A.

(2) The provisions referred to in subsection (1) are sections 67D(1)(c), 67G(4) and 67I(3)(b).

### 67K 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

### 67L Ministers' duty to make lotting decision

(1) Ministers are to make a lotting decision in respect of land under section 67N or 67O 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 67W.

(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 67I, 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.

### 67M Request for Ministers not to make lotting decision

(1) Ministers' duty to make a lotting decision in respect of land under section 67L 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 67P, 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 67I, 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.

### 67N 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—

(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 67O 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.

(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 67P, 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—

(a) it is made by the owner, and

(b) it is made in the prescribed manner.

### 67O 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 consider that it is in the public interest to do so.

(2) A lotting decision will not be in the public interest for the purpose of subsection (1) unless Ministers 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 in the vicinity of the land more sustainable than would be the case if all of the land were transferred to the same person.

(3) A lotting decision under this section stating that land may only be transferred in lots must—

(a) specify those lots,

(b) provide a statement of reasons as to why Ministers consider the decision is in the public interest.

(4) 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.

(5) Ministers may not make any lotting decision in respect of land under this section without requesting, and taking into account, a report under section 67P in relation to the land.

(6) 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 in the vicinity of the land, Ministers must have particular regard to the extent to which ownership of land in the community's vicinity is concentrated.

(7) Ministers must make a lotting decision under this section before the expiry of the period of 6 months beginning with the day on which a valid application under section 67L is received.

(8) Any failure to comply with the time limit specified in subsection (7) does not affect the validity of anything done by Ministers under this section.

**67P 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 67O.

(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.

**67Q Guidance on lotting decisions**

(1) Ministers must issue guidance about making lotting decisions under section 67O.

(2) Guidance issued under subsection (1) must, in particular, include information about—

(a) how Ministers expect the process of making a lotting decision to operate in practice,

(b) how Ministers will take land being occupied as a croft or a tenancy for agricultural or cultivational purposes into consideration in making a lotting decision,

(c) circumstances in which Ministers are to instruct the Land and Communities Commissioner to carry out an initial review of an application and provide a report as soon as is practicable,

(d) other circumstances in which a report is to be provided by the Commissioner on the basis of an initial review of an application when instructed by Ministers.

(3) In preparing guidance under subsection (1), Ministers must have regard to the public interest.

(4) For the purposes of subsection (3), "the public interest" includes the desirability of—

(a) achieving a more diverse ownership of land, including more community ownership of land,

(b) furthering sustainable development,

(c) securing a greater proportion of community owned energy,

(d) advancing community wealth building,

(e) ensuring an adequate supply of affordable housing and of workspace for employment.

(5) Before issuing guidance under subsection (1), Ministers must consult—

(a) the Land and Communities Commissioner, and

(b) such other persons as they consider appropriate.

(6) Ministers must make publicly available the latest version of any guidance issued under subsection (1) as soon as practicable after issuing it.

## CHAPTER 3

REVIEW OF LOTTING DECISION

### 67R 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, before the expiry of the period of 3 months beginning with the day the application asking for the review was received, either—

(i) confirm the lotting decision, or

(ii) withdraw the lotting decision and make a new one under section 67T, and

(b) may offer to buy, in accordance with section 67U and any regulations made under it, one or more of the lots specified in the lotting decision.

(3) Any failure to comply with the time limit specified in subsection (2)(a) does not affect the validity of anything done by Ministers under this section or section 67T.

(4) 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.

**67S Request for Ministers to stop review**

(1) Ministers' duty to review a lotting decision in respect of land under section 67R ceases to apply if they receive a valid request asking them to stop the review.

(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.

**67T Replacement lotting decision following review**

(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.

(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), (2), (3) and (6) of section 67O apply to the making of a lotting decision under this section as they do to the making of a lotting decision under that section.

(7) Before making a lotting decision under this section, Ministers are to consider whether it would be appropriate to seek 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.

**67U Offer to buy following review**

(1) Ministers may offer to buy land under section 67R(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.

(2) If Ministers offer to buy land under section 67R(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.

(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.

(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.

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

(7) Ministers must, before laying a draft of any regulations under this section, consult such persons as they consider appropriate.

**67V Specific request that Ministers consider making offer to buy**

(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 67U(1) in relation to the land, and

(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.

(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.

(5) If, in an appeal under subsection (3), the Tribunal determines that Ministers are entitled to be satisfied about the matter mentioned in section 67U(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 67R(2)(b).

## CHAPTER 4

APPEAL AGAINST LOTTING DECISION

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

(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—

(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.

(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 67L).

## CHAPTER 5

COMPENSATION

### 67X Compensation

(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—

(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.

(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—

(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 28 days beginning with the day that the appellant receives Ministers' determination.

(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.

(5) Ministers must, before laying a draft of regulations under this section, consult such persons as they consider appropriate.

## CHAPTER 6

FURTHER PROVISION FOR PART 2A

### 67Y Notice of lotting decisions

Having made a lotting decision, Ministers must—

(a) give a copy of it to—

(i) the owner of the land to which it relates, and

(ii) any creditor in a standard security over an interest in the land,

(b) inform of the decision any person whose wish to be notified of possible transfers of the land (or any area it wholly or partly subsumes or is subsumed by) is recorded in the list kept in accordance with section 46A.

### 67Z 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).

### 67Z1 Powers to modify Part and schedule 1A

(1) Ministers may by regulations modify this Part and schedule 1A so as to change (or clarify)—

(a) what constitutes an exempt transfer for the purposes of sections 67C and 67D,

(b) the land to which section 67H applies,

(c) the duration of "the applicable period" as defined by section 67G(5),

(d) the period mentioned in section 67O(7),

(e) the period mentioned in section 67T(8),

(f) the period specified in section 67R(4)(c).

(2) Ministers must, before laying a draft of any regulations under this section, consult such persons as they consider appropriate.".

## 5 Modifications in connection with section 4

(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 "67U(6), 67X(4), 67Z1,",

(b) in subsection (5A), after "51(1)(b)," insert "67O, 67T,".

**6 Modifications in connection with sections 2 and 4**

(1) The Land Reform (Scotland) Act 2003 is modified as follows.

(2) After schedule 1 insert the following as schedule 1A—

"SCHEDULE 1A
*(introduced by sections 46L and 67J)*

MEANING OF CONNECTED PERSON IN THE RELEVANT PROVISIONS

*Purpose of schedule*

1 This schedule makes provision for determining whether one person is connected to another for the purposes of the relevant provisions.".

(3) If, in the title of schedule 1A, the words "the relevant provisions"—

(a) appear, then for those words—

(i) in paragraph 1 of the schedule substitute "section 46L(4)(b)",

(ii) in the title of the schedule substitute "Chapter 2A of Part 2",

(b) do not appear, then—

(i) in paragraph 1 of the schedule after "of" insert "section 46L(4)(b) and",

(ii) in the title of the schedule after "in" insert "Chapter 2A of Part 2 and".

(4) If, in the title of schedule 1A, the words "the relevant provisions"—

(a) appear, then for those words—

(i) in paragraph 1 of the schedule substitute "the provisions mentioned in section 67J(2)",

(ii) in the title of the schedule substitute "Part 2A",

(b) do not appear, then—

(i) in paragraph 1 of the schedule after "46L(4)(b)" insert "and the provisions mentioned in section 67J(2)",

(ii) in the title of the schedule after "Chapter 2A of Part 2" insert "and Part 2A".

(5) After paragraph 1 of schedule 1A insert the text set out in schedule 1.

**7 Establishment of the Land and Communities Commissioner**

(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 67H 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 44H to 44L, 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—

(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.

(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.".

## CHAPTER 2

FUNCTIONS OF THE LAND COMMISSIONERS

**8 Functions of the Land Commissioners: natural capital markets**

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

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

(a) in subsection (5), after paragraph (d) insert ",

(e) the effects of natural capital markets in relation to other matters relating to land in Scotland.",

(b) after subsection (5) insert—

"(6) In subsection (5) "natural capital market" means the trading of units or credits which are generated through a registration scheme for projects to restore or improve the natural environment.".

**9 Functions of the Land Commissioners: further provisions**

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

(2) In section 22 (functions of the Land Commissioners), in subsection (5), after paragraph (e) (as inserted by section 8(2) of this Act) insert ",

(f) the relationship between scale and concentrations of land holdings and local economic development,

(g) the desirability of achieving a more diverse pattern of landownership comprising more landowners and different types of landowners,

(h) measures to prevent depopulation and support the repopulation of land and the sustainability of communities.".

## CHAPTER 3

REVIEW OF PART

### 10 Review of Part 1

(1) The Land Commissioners must, in pursuance of their function under section 22(1)(a) of the Land Reform (Scotland) Act 2016, review the impact and effectiveness of this Part.

(2) The review must evaluate the impact and effect of this Part on islands and island communities (within the meaning of the Islands (Scotland) Act 2018).

(3) The review must consider the appropriateness of this Part's application to land as described in section 44F of the Land Reform (Scotland) Act 2016 and sections 46L and 67H of the Land Reform (Scotland) Act 2003, having particular regard to the size of the areas of land, and whether the size of the areas needs to be reduced.

(4) The review must consider the appropriateness of this Part's application to land as described in section 44F of the Land Reform (Scotland) Act 2016 and sections 46L and 67H of the Land Reform (Scotland) Act 2003, having particular regard to what land is to be treated as contiguous and what land forms a composite holding.

(5) The review must consider—

(a) whether there is greater transparency of land ownership and management as a result of this Part,

(b) whether communities are experiencing greater involvement in decisions about the land on which they live and work as a result of this Part,

(c) any impact that this Part has had on the amount of land purchased by community bodies,

(d) whether there is a greater diversification of land ownership as a result of this Part and, if so, the impact this has had on community sustainability,

(e) whether the thresholds for the land to which section 44F of the 2016 Act and sections 46L and 67H of the 2003 Act apply should be amended,

(f) whether there are any loopholes that have been identified in the application of this Part,

(g) any negative unintended consequences of this Part.

(6) The review must be completed no later than 5 years after the day on which this section comes into force.

(7) As soon as reasonably practicable after completing the review, the Land Commissioners must—

(a) prepare a report of the review's findings,

(b) lay a copy of the report before the Scottish Parliament, and

(c) make the report publicly available.

(8) Within 1 year of a report being laid before the Parliament in accordance with subsection (7)(b), the Scottish Ministers must—

(a) prepare a response to the report which includes—

(i) a statement of any action the Scottish Ministers intend to take as a result of the review's findings, and

(ii) where the Scottish Ministers do not intend to take any action, a statement of their reasons for that,

(b) lay a copy of the response before the Parliament, and

(c) make the response publicly available.

## PART 2

LEASING LAND

## CHAPTER 1

MODEL LEASES

### 11 Duty to publish model lease for environmental purposes

(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.

(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—

(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.

### 12 Duty to publish model lease for hutting

(1) The Scottish Ministers are to make publicly available a model lease designed for letting public land so that it can be used for the purpose of building or occupying huts.

(2) The Scottish Ministers must fulfil their duty under this section before the end of the period of 3 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, a hut—

(a) is a simple building used intermittently as recreational accommodation,

(b) has an internal floor area of no more than 30 square metres,

(c) is constructed from low impact materials,

(d) is generally not connected to mains water, electricity or sewerage,

(e) is built in such a way that it is removable with little or no trace at the end of its life.

## CHAPTER 2

SMALL LANDHOLDINGS

### 13 Small landholdings

Schedule 2 makes provision in respect of certain aspects of the law relating to small landholdings.

### 14 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".

(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 schedule 2 of the Land Reform (Scotland) Act 2025).".

(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",

(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 "—

(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.".

(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 "—

(a) landlords and tenants of agricultural holdings,

(b) landlords and tenants of small landholdings,

(c) agents of a person mentioned in paragraph (a) or (b).",

(b) in subsection (2)—

(i) in paragraph (a), after "negotiating" insert "rent",

(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 31), after "purposes" insert "or for non-cultivation activities",

(c) in subsection (9)—

(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 61 of the 1991 Act,

(b) section 78 of the 2003 Act,

(c) paragraph 74 of schedule 2 of the Land Reform (Scotland) Act 2025.".

(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,

(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,

(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) In section 33 (report on inquiry), in subsection (4)—

(a) for "section 61 of the 1991 Act or section 78 of the 2003 Act" substitute "the following provisions",

(b) after "proceedings" insert "—

(a) section 61 of the 1991 Act,

(b) section 78 of the 2003 Act,

(c) paragraph 74 of schedule 2 of the Land Reform (Scotland) Act 2025.".

(9) The heading of section 36 becomes "Report on operation of agents in relation to agricultural holdings".

(10) The heading of section 37 becomes "Recommendations for modern list of improvements to agricultural holdings".

## CHAPTER 3

AGRICULTURAL HOLDINGS

*Tenant's right to buy*

### 15 Registration of interest and right to buy

(1) The Agricultural Holdings (Scotland) Act 2003 is modified by subsections (2) to (10).

(2) In section 25 (registration of tenant's interest), in subsection (6)—

(a) in the opening words, the words "on receipt of the extract," are repealed,

(b) in paragraph (a), after "tenant" insert "on receipt of the extract",

(c) in paragraph (b), after "security" insert "within the period of 28 days beginning with the day on which the owner receives the extract".

(3) In section 27 (transfers not requiring notice)—

(a) in subsection (1)(c), after "spouses" insert "or civil partners",

(b) after subsection (5) insert—

"(6) Before laying a draft of a Scottish statutory instrument containing an order under subsection (5) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.".

(4) In section 28 (right to buy), after subsection (5) insert—

"(6) Before laying a draft of a Scottish statutory instrument containing an order under subsection (5) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.".

(5) In section 29 (exercise of right to buy)—

(a) in subsection (1), for "28(1)" substitute "28(1)(a)",

(b) after subsection (2) insert—

"(2A) Where a tenant has a right to buy land under section 28(1)(b), the tenant may proceed in accordance with section 32 to buy the land from the owner or, as the case may be, the creditor provided that the tenant gives notice to the owner or, as the case may be, the creditor that the tenant intends to buy the land.",

(c) for subsection (6) substitute—

"(6) The right to buy mentioned in—

(a) subsection (1) is extinguished if the tenant does not give notice in accordance with subsection (2),

(b) subsection (3) is extinguished if the tenant does not give notice in accordance with subsection (4),

(c) subsection (1), (2A) or (3) is extinguished if the tenant gives notice under subsection (5).",

(d) after subsection (7) insert—

"(8) The Scottish Ministers may by regulations make provision for a period within which any notice given by a tenant under subsection (2A) is to be given.

(9) Regulations under subsection (8) may modify this section.".

(6) After section 31 insert—

**"31A Power to modify: registration of tenant's interest**

(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,

(b) such persons as the Scottish Ministers consider representative of the interests of tenants of 1991 Act tenancies and their landlords, and

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

(7) In section 32 (procedure for buying), in subsection (3)—

(a) in the opening words, for "are" substitute "is",

(b) in paragraph (a), after "29(2)" insert ", (2A)".

(8) In section 33 (appointment of valuer), in subsection (2), after "29(2)" insert ", (2A)".

(9) In section 34 (valuation of the land), in subsection (1)—

(a) the words from "the date" to the end become paragraph (a),

(b) after that paragraph insert ", or

(b) where no such notice was given, the date on which the tenant gave notice under section 29 of the tenant's intention to buy the land.".

(10) In section 91 (orders and regulations)—

(a) in subsection (3)(a), after "18(4)(b)(ii)," insert "25(7),",

(b) in subsection (3)(b), after "18A(4)(b)(ii)," insert "25(3),",

(c) in subsection (4)(b), after "9C(6)," insert "29(8), 31A,".

(11) The Land Reform (Scotland) Act 2016 is modified by subsections (12) and (13).

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

"(ea) the tenant's right to buy,".

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

*Assignation in relation to 1991 Act tenancies*

**16 Assignation of tenancy**

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

(2) In section 10A (assignation of tenancy)—

(a) in subsection (1A), for paragraphs (b) to (n) substitute—

"(aa) a spouse or civil partner of—

(i) a tenant's descendant,

(ii) a tenant's sibling,

(ab) in relation to a tenant'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.",

(b) after subsection (1A) insert—

"(1B) For the purpose of subsection (1A)—

(a) a reference to a spouse or civil partner of a person ("person A") includes, where person A has died, a reference to a 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 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 subsection (1A)(a) is to be read as if the rules of intestacy applied accordingly).",

(c) in subsection (2), after "assignee" insert "(including the proposed assignee's relationship to the tenant)",

(d) in subsection (3B)(a), for "of the notice" substitute "on which the notice is given",

(e) in subsection (4), for "30 days of the giving of the notice" substitute "the period of 28 days beginning with the date on which the notice is given",

(f) in subsection (5), for "under this section shall, in so far as it so purports, be null and void" substitute "in accordance with this section or in accordance with an order of the Land Court made under section 60 is, in so far as it so purports, null and void",

(g) in subsection (6), for paragraphs (a) to (m) substitute—

"(aa) a tenant's parent,

(ab) in relation to a tenant's child—

(i) that child,

(ii) that child's spouse or civil partner,

(iii) a descendant of that child,

(ac) in relation to a tenant's sibling—

(i) that sibling,

(ii) that sibling's spouse or civil partner,

(iii) a descendant of that sibling,

(ad) in relation to a tenant's spouse or civil partner—

(i) that spouse or civil partner,

(ii) that spouse or civil partner's sibling,

(iii) a descendant of that sibling.",

(h) after subsection (6) insert—

"(7) For the purpose of subsection (6)—

(a) a reference to a spouse or civil partner of a person ("person A") includes, where person A has died, a reference to a 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.".

*Assignation in relation to 2003 Act tenancies*

**17 Assignation of limited duration tenancy**

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

(2) In section 7 (assignation and subletting of limited duration tenancies)—

(a) in subsection (2), after "assignee" insert "(including the proposed assignee's relationship to the tenant)",

(b) in subsection (3B)(a), for "of the notice" substitute "on which the notice is given",

(c) in subsection (4), for "30 days of the giving of the notice" substitute "the period of 28 days beginning with the date on which the notice is given",

(d) in subsection (5)(a)(ii), for "30 days of the giving of the notice" substitute "the period of 28 days beginning with the date on which the notice is given",

(e) in subsection (5A), for paragraphs (a) to (m) substitute—

"(aa) a tenant's parent,

(ab) in relation to a tenant's child—

(i) that child,

(ii) that child's spouse or civil partner,

(iii) a descendant of that child,

(ac) in relation to a tenant's sibling—

(i) that sibling,

(ii) that sibling's spouse or civil partner,

(iii) a descendant of that sibling,

(ad) in relation to a tenant's spouse or civil partner—

(i) that spouse or civil partner,

(ii) that spouse or civil partner's sibling,

(iii) a descendant of that sibling.",

(f) after that subsection insert—

"(5B) For the purpose of subsection (5A)—

(a) a reference to a spouse or civil partner of a person ("person A") includes, where person A has died, a reference to a 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.".

**18 Assignation of modern limited duration tenancy**

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

(2) In section 7B (assignation of modern limited duration tenancies)—

(a) in subsection (2), after "assignee" insert "(including the proposed assignee's relationship to the tenant)",

(b) in subsection (5)(a), for "of the notice" substitute "on which the notice is given",

(c) in subsection (6), for "30 days of the giving of the notice" substitute "the period of 28 days beginning with the date on which the notice is given",

(d) in subsection (8), for paragraphs (a) to (m) substitute—

"(aa) a tenant's parent,

(ab) in relation to a tenant's child—

(i) that child,

(ii) that child's spouse or civil partner,

(iii) a descendant of that child,

(ac) in relation to a tenant's sibling—

(i) that sibling,

(ii) that sibling's spouse or civil partner,

(iii) a descendant of that sibling,

(ad) in relation to a tenant's spouse or civil partner—

(i) that spouse or civil partner,

(ii) that spouse or civil partner's sibling,

(iii) a descendant of that sibling.",

(e) after that subsection insert—

"(9) For the purpose of subsection (8)—

(a) a reference to a spouse or civil partner of a person ("person A") includes, where person A has died, a reference to a 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.".

**19 Assignation of repairing tenancy**

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

(2) In section 7D (assignation of repairing tenancies) (as inserted by the section 106(2) of the Land Reform (Scotland) Act 2016)—

(a) in subsection (4)(a), for "of the notice" substitute "on which the notice is given",

(b) in subsection (5), for "30 days of the giving of the notice" substitute "the period of 28 days beginning with the date in which the notice is given".

*Resumption*

**20 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 a part of an agricultural holding.

(2) To resume possession of a part of an agricultural holding the landlord must give the tenant written notice of the landlord's intention to resume possession.

(3) The notice must—

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

(b) nominate a person who appears to the landlord to meet the requirements to be a valuer mentioned in paragraph 3(4) of schedule 2A,

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

(d) 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 6 weeks 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)(d).

(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 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 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)(d).

(2) Where the Tenant Farming Commissioner has appointed a valuer under paragraph 3(2) of schedule 2A, the landlord must, at the same time as withdrawing the notice of resumption, send a copy of the withdrawal to the 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(3) and (6))*

DETERMINATION OF COMPENSATION FOR VALUE OF RESUMED LAND

*Interpretation*

1 In this schedule, "valuer" means a person appointed under paragraph 2(2), 3(2) or, as the case may be, 4(5)(b).

*Appointment of valuer by parties*

2 (1) This paragraph applies where a notice of resumption has been given under section 32ZA(2).

(2) The landlord must appoint as valuer—

(a) the person nominated in the notice given under section 32ZA(2), provided sub-paragraph (3) does not apply, or

(b) the person agreed on as the valuer by the parties during negotiations under sub-paragraph (5).

(3) This sub-paragraph applies where—

(a) the tenant has given—

(i) notice to terminate the tenancy under section 32ZA(4), or

(ii) a notice of objection under sub-paragraph (4), or

(b) the period mentioned in section 32ZA(4) or, as the case may be, sub-paragraph (4) has not ended, no notice as mentioned in paragraph (a)(i) or (ii) having been given.

(4) Where the tenant objects to a person nominated to be the valuer in a notice given under section 32ZA(2), the tenant must, within the period of 6 weeks beginning with the date on which the notice is given, give notice of the objection to the landlord.

(5) Where a notice of objection by the tenant is given under sub-paragraph (4), the parties may enter into negotiations with a view to agreeing on a person to be appointed as the valuer, being a person who appears to both parties to meet the requirements mentioned in paragraph 3(4).

(6) The landlord may request that the Tenant Farming Commissioner appoint a valuer under paragraph 3 where—

(a) the parties do not enter into negotiations of a kind mentioned in sub-paragraph (5), or

(b) no agreement is reached on the appointment of a person as valuer during such negotiations.

(7) A request made under sub-paragraph (6)—

(a) must be copied to the tenant,

(b) must include—

(i) copies of the notice given under section 32ZA(2) and the notice of objection given under sub-paragraph (4), and

(ii) details of any negotiations undertaken under sub-paragraph (4), including any relevant information about persons rejected as valuer by either party.

(8) A notice given under section 32ZA(2) is deemed to be of no effect if, within the period of 10 weeks beginning with the date on which the notice is given—

(a) the landlord does not appoint a person as valuer in accordance with sub-paragraph (2), or

(b) the landlord does not make a request under sub-paragraph (6).

(9) Where the tenant gives notice under section 32ZA(4) to terminate the tenancy the landlord must, where a request has been made under sub-paragraph (6), give notice to the Commissioner and to any valuer appointed by virtue of that request.

*Appointment of valuer by Tenant Farming Commissioner*

3 (1) This paragraph applies where the Tenant Farming Commissioner receives a request under paragraph 2(6).

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

(a) carry out the assessment mentioned in paragraph 6(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) The 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*

4 (1) This paragraph applies where the tenant or the landlord objects to the person appointed under paragraph 3(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 3(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 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 3(5), 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*

5 (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.*

6 (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—

(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—

(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—

(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,

(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,

(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,

(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

(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.

(4) The valuer is to calculate, in accordance with paragraph 8, 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—

(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 sub-paragraph (5) are subject to the affirmative procedure.

*Valuation: further provision*

7 (1) The valuer is—

(a) to invite the landlord and the tenant to make written representations about the assessment under paragraph 6(1), and

(b) to have regard to any such representations.

(2) The valuer may—

(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 6(1).

(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.

(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*

8 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 6(1) or, as the case may be, 10(3)(a)).

*Notice of assessment*

9 (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.

(2) The period is the period of 8 weeks beginning with—

(a) the date on which the valuer is appointed by the landlord under paragraph 2(2),

(b) the date on which the period, within which an application under paragraph 4(3) may be made, expires, or

(c) where such an application is made, the date of the Land Court's decision on it.

(3) The matters are—

(a) the value, assessed under paragraph 6(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 8, to be payable by the landlord to the tenant in respect of compensation for the value of the land being resumed.

(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.

(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".

*Appeal to Lands Tribunal against valuer's assessment*

10 (1) The tenant 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

(b) be lodged before the expiry of the period of 21 days beginning with the date the notice of assessment was served.

(3) The Lands Tribunal may—

(a) reassess any value mentioned in paragraph 6(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 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*

11 Where, in an appeal before the Lands Tribunal under paragraph 10, 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.".

**21 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) in subsection (2), after paragraph (a) insert—

"(aa) nominate a person who appears to the landlord to meet the requirements to be a valuer mentioned in paragraph 3(4) of schedule 2,",

(b) in subsection (3), for "28 days" substitute "6 weeks",

(c) 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.".

(3) After section 17 insert—

**"17A 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 17(3), a landlord may withdraw a notice of resumption given in accordance with that section at any time before the date specified in section 17(2)(c).

(2) But where the notice of resumption relates to the all of the land comprised in the lease, the notice may not be withdrawn without the tenant's consent.

(3) Where the Tenant Farming Commissioner has appointed a valuer under paragraph 3 of schedule 2, the landlord must, at the same time as withdrawing the notice of resumption, send a copy of the withdrawal to the Commissioner.

(4) 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.".

(4) In section 91 (orders and regulations)—

(a) in subsection (3)(b), after "38P(2)" insert "or paragraph 3(3)(b) of schedule 2",

(b) in subsection (4)(b), after "74A" insert "or paragraph 6(5) of schedule 2".

(5) In section 93 (interpretation), after the definition of "tenant" insert—

""Tenant Farming Commissioner" means the person appointed as Tenant Farming Commissioner under section 10(1) of the Land Reform (Scotland) Act 2016,",

(6) After the schedule insert—

"SCHEDULE 2
*(introduced by section 17(2) and (4A))*

DETERMINATION OF COMPENSATION FOR VALUE OF LAND RESUMED

*Interpretation*

1 In this schedule, "valuer" means a person appointed under paragraph 2(2), 3(2) or, as the case may be, 4(5)(b).

*Appointment of valuer by parties*

2 (1) This paragraph applies where a notice of resumption has been given under section 17(2).

(2) The landlord must appoint as valuer—

(a) the person nominated in the notice given under section 17(2), provided sub-paragraph (3) does not apply, or

(b) the person agreed on as the valuer by the parties during negotiations under sub-paragraph (5).

(3) This sub-paragraph applies where—

(a) the tenant has given—

(i) notice to terminate the tenancy under section 17(4), or

(ii) a notice of objection under sub-paragraph (4), or

(b) the period mentioned in section 17(4) or, as the case may be, sub-paragraph (4) has not ended, no notice as mentioned in paragraph (a)(i) or (ii) having been given.

(4) Where the tenant objects to a person nominated to be the valuer in a notice given under section 17(2), the tenant must, within the period of 6 weeks beginning with the date on which the notice is given, give notice of the objection to the landlord.

(5) Where a notice of objection by the tenant is given under sub-paragraph (4), the parties may enter into negotiations with a view to agreeing on a person to be appointed as the valuer, being a person who appears to both parties to meet the requirements mentioned in paragraph 3(4).

(6) The landlord may request that the Tenant Farming Commissioner appoint a valuer under paragraph 3 where—

(a) the parties do not enter into negotiations of a kind mentioned in sub-paragraph (5), or

(b) no agreement is reached on the appointment of a person as valuer during such negotiations.

(7) A request made under sub-paragraph (6)—

(a) must be copied to the tenant,

(b) must include—

(i) copies of the notice given under section 17(2) and the notice of objection given under sub-paragraph (4), and

(ii) details of any negotiations undertaken under sub-paragraph (5), including any relevant information about persons rejected as valuer by either party.

(8) A notice given under section 17(2) is deemed to be of no effect if, within the period of 10 weeks beginning with the date on which the notice is given—

(a) the landlord does not appoint a person as valuer in accordance with sub-paragraph (2), or

(b) the landlord does not make a request under sub-paragraph (6).

(9) Where the tenant gives notice under section 17(3) to terminate the tenancy the landlord must, where a request has been made under sub-paragraph (6), give notice to the Commissioner and to any valuer appointed by virtue of that request.

*Appointment of valuer by Tenant Farming Commissioner*

3 (1) This paragraph applies where the Tenant Farming Commissioner receives a request under paragraph 2(6).

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

(a) carry out the assessment mentioned in paragraph 6(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 specified by the Scottish Ministers by regulations.

(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) The 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*

4 (1) This paragraph applies where the tenant or the landlord objects to the person appointed under paragraph 3(2) 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 landlord or, as the case may be, the tenant, or

(b) does not possess the qualifications, knowledge and experience mentioned in paragraph 3(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 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 3(5), 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*

5 (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.*

6 (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—

(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—

(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,

(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,

(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 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.

(4) The valuer is to calculate, in accordance with paragraph 8, 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—

(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*

7 (1) The valuer is—

(a) to invite the landlord and the tenant to make written representations about the assessment under paragraph 6(1), and

(b) to have regard to any such representations.

(2) The valuer may—

(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 6(1).

(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.

(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*

8 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 6(1) or, as the case may be, 10(3)(a)).

*Notice of assessment*

9 (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.

(2) The period is the period of 8 weeks beginning with—

(a) the date on which the valuer is appointed by the landlord under paragraph 2(2),

(b) the date on which the period, within which an application under paragraph 4(3) may be made, expires, or

(c) where such an application is made, the date of the Land Court's decision on it.

(3) The matters are—

(a) the value, assessed under paragraph 6(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 8, to be payable by the landlord to the tenant in respect of compensation for the value of the land being resumed.

(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.

(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".

*Appeal to Lands Tribunal against valuer's assessment*

10 (1) The tenant 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

(b) be lodged before the expiry of the period of 21 days beginning with the date the notice of assessment was served.

(3) The Lands Tribunal may—

(a) reassess any value mentioned in paragraph 6(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 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*

11 Where, in an appeal before the Lands Tribunal under paragraph 10, 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.".

**22 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—

"(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—

"(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 on termination and resumption*

**23 Power to make provision about compensation on termination**

(1) The Scottish Ministers may by regulations modify the enactment specified in column 1 of the table below for a purpose specified in column 2.

| 1: enactment | 2: purpose |
|---|---|
| The Agricultural Holdings (Scotland) Act 1991 ("the 1991 Act") | 1. Creating an entitlement to compensation for a tenant (which is additional to any other entitlement to compensation the tenant may have under the 1991 Act) where—<br>(a) the tenant's 1991 Act tenancy (as defined by section 1(4) of the Agricultural Holdings (Scotland) Act 2003) is terminated by reason of a notice to quit given by the landlord, and<br>(b) the notice to quit is given solely on the ground mentioned in section 22(2)(b) of the 1991 Act<br>2. Changing or clarifying the method for determining the amount of that additional compensation |

(2) Without prejudice to its generality, the power under subsection (1) may be exercised for the first of the purposes specified in it to make any provision of a kind contained in schedule 2A of the 1991 Act (as inserted, or to be inserted, by section 20(4) of this Act).

(3) Section 46 applies in relation to the first regulations to be made under subsection (1).

(4) No regulations may be made under subsection (1) after the end of the period of 5 years beginning with the day after Royal Assent.

### 24 Power to make provision about compensation on resumption

(1) The Scottish Ministers may by regulations modify the enactment specified in column 1 of the table below for the purpose specified in column 2.

| 1: enactment | 2: purpose |
|---|---|
| The Agricultural Holdings (Scotland) Act 2003 ("the 2003 Act"), schedule 2 (as inserted by section 21(6) of this Act) | Changing or clarifying the method for determining the additional amount of compensation payable to a tenant under section 17(4A) of the 2003 Act (as inserted, or to be inserted, by section 21(2)(c) of this Act) |

(2) Regulations under subsection (1) may be made before section 21 of this Act comes into force so that the modifications the regulations make to schedule 2 of the 2003 Act come into force at the same time as section 21 of this Act inserts that schedule.

(3) Section 46 applies in relation to the first regulations to be made under subsection (1).

(4) No regulations may be made under subsection (1) after the end of the period of 5 years beginning with the day after Royal Assent.

*Compensation for improvements*

### 25 Compensation for improvements

(1) The Agricultural Holdings (Scotland) Act 1991 is modified by subsections (2) to (11).

(2) In section 14A (landlord improvement notices), in subsection (2), after "improvement" in the second place it appears insert "of a kind referred to or".

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

(4) 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 paragraph 5".

(5) In section 34 (right to compensation for improvements), in subsection (6), for "32" substitute "5(k)".

(6) In section 35 (payment of compensation by incoming tenant), in subsection (3), for "of a kind referred to in Part III" substitute "specified in paragraph 5".

(7) 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 (1H) 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(2B).

(1E) Where the parties have been unable to agree terms for consent within the 70 day period described in subsection (1C), the landlord must, as soon as reasonably practicable after the end of that period, provide the tenant with reasons in writing explaining the basis why the landlord has not consented to the proposed improvement including, in particular, by reference to the matters described in section 39(2B).

(1F) Where—

(a) the landlord has refused consent to the proposed improvement (whether or not reasons have been provided under subsection (1D)), 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.

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

(1H) 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.".

(8) 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.".

(9) In section 39 (compensation for schedule 5, Part II improvements conditional 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 (1) insert—

"(1A) A notice of objection under subsection (1) must provide the landlord's reasons for objecting to the tenant's carrying out of the improvement or to the manner in which the tenant proposes to carry it out including, in particular, by reference to the matters described in subsection (2B).",

(c) 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 to consider the matters set out in subsection (2B).

(2B) The matters are—

(a) whether 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) whether it is reasonable, in all the circumstances of the case, for the improvement to be carried out.

(2C) The following improvements, unless the contrary is shown, are presumed to facilitate or enhance sustainable or regenerative agricultural production—

(a) laying down permanent pasture,

(b) making water-meadows,

(c) warping or weiring land,

(d) re-wetting wetlands,

(e) creating silvopasture and silvoarable systems,

(f) restoring peatland,

(g) erecting, altering or enlarging buildings, facilities or other structures required for the creation or storage of energy—

(i) from a renewable source (such as a wind turbine or solar panel), and

(ii) which is primarily to be used on the holding.".

(10) 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 section 39(2C) and paragraphs 2, 4 and 5 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).",

(e) the section title becomes "Compensation for improvements: power to modify lists".

(11) For schedule 5 substitute—

"SCHEDULE 5
*(introduced by section 33)*

NEW IMPROVEMENTS FOR WHICH COMPENSATION MAY BE PAYABLE

**PART 1**

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) making water-meadows,

(e) warping or weiring land,

(f) creating silvopasture and silvoarable systems,

(g) restoring peatland,

(h) 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) laying down permanent pasture,

(c) re-wetting wetlands,

(d) the construction of silos,

(e) making or improving farm access or service roads, bridges and fords,

(f) making or improving watercourses, ponds or wells,

(g) works for the application of water power for agricultural or domestic purposes or for the supply of water for such purposes,

(h) making or removing permanent fences, stone dykes and gates,

(i) reclaiming waste land,

(j) making or renewing embankments, sluices and other flood-prevention measures,

(k) providing stells, fanks, folds, dippers, pens and bughts necessary for the proper conduct of the holding,

(l) planting or renewing shelterbelts,

(m) the installation, provision, distribution or storage of electricity, gas, power, heat or light,

(n) erecting, altering or enlarging buildings, facilities or other structures 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,

(iv) the creation or storage of energy, which is primarily to be used on the holding, from a renewable source (such as a wind turbine or solar panel),

(o) making or improving permanent yards, loading banks and stocks,

(p) erecting hay or sheaf sheds, sheaf or grain drying racks, and implement sheds,

(q) providing fixed threshing mills, barn machinery and fixed dairying plant,

(r) provision of means of sewage, waste or pollutant disposal, or provision of means of managing water on land,

(s) 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,

(t) providing means to store silage,

(u) works to dwellings,

(v) making gardens,

(w) 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,

(b) creating species-rich pasture,

(c) converting the holding (or a significant part of it) to a standard of organic farming that is capable of being accredited by a recognised accreditation organisation,

(d) improving soil health, structure or condition including, in particular, by—

(i) clay burning,

(ii) liming (including chalking) land,

(iii) marling or claying land,

(iv) applying soil improvers, conditioners, digestates, manure or fertiliser, whether organic or inorganic, to the land,

(e) improving permanent pasture by cultivation and re-seeding,

(f) control of bracken, whins or broom growing on the holding at the commencement of the tenancy,

(g) removing tree roots, boulders, stones or other similar obstacles to cultivation from arable land or from permanent grass land,

(h) forming hedges,

(i) creating field margins, including uncropped field margins, to provide or improve habitats for wild animals, insects and birds,

(j) 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,

(k) 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.".

(12) The Agricultural Holdings (Scotland) Act 2003 is modified by subsections (13) to (17).

(13) In section 10 (increase in rent: landlord's improvements), in subsection (1), after "one" insert "of a kind referred to or".

(14) In section 10A (landlord improvement notices), in subsection (3), after second "improvement" insert "of a kind referred to or".

(15) In section 45 (right to compensation for improvements)—

(a) in subsection (2), after "improvements" insert "of a kind referred to or",

(b) in subsection (3), for "32" substitute "5(k)",

(c) in subsection (5)—

(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".

(16) In section 48 (consent required for compensation in certain cases), for "specified in Part I" substitute "of a kind referred to in paragraph 1".

(17) In section 49 (notice required for certain improvements), in subsection (1), for "specified in Part II" substitute "of a kind referred to in paragraph 3".

(18) The Land Reform (Scotland) Act 2016 is modified by subsection (19).

(19) 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*

**26 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, in that notification, 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),".

**27 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.".

**28 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)).".

**29 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".

*Tenant Farming Commissioner: codes of practice*

**30 Resumption and termination of relevant tenancies and small landholdings**

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

(2) In section 27(2) (Tenant Farming Commissioner: codes of practice), after paragraph (ea) (as inserted by section 15(12) of this Act) insert—

"(eb) the process for resuming land comprised in a lease constituting a relevant tenancy or comprising a small landholding,

(ec) the process for terminating a tenancy to which the 1991 Act applies where a notice to quit has been served which the tenant cannot contest through the counter-notice process under section 22(1) of that Act,".

**31 Use of land for non-agricultural purposes**

(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.*

**32 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*

**33 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 21(6) 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*

3 (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*

4 (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*

5 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*

6 (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*

7 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.

(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.

(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.

*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.

(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

(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.

*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.

(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*

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

(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

(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—

(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*

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.".

**34 Interest payable on compensation**

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

(2) After section 59B (as inserted by section 33 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).

(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—

(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.

(5) For the purposes of this section, "relevant type of compensation" has the same meaning as that given in section 59B.".

*Rent review*

**35 Rent review: 1991 Act tenancies**

(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—

"(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 that is used for a purpose that is not an agricultural purpose,

(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 comparable holdings,

(e) the prevailing economic conditions in the sectors of agriculture relevant to the holding.

(5) But in determining the fair rent for the holding, the Land Court is to take no account of—

(a) the amount by which the rental value of the holding has been increased by improvements to the extent determined in accordance with sub-paragraph (8),

(b) any reduction in the rental value of the holding caused by a matter of a kind mentioned in sub-paragraph (11),

(c) any effect on the rent of the tenant being in occupation of the holding.

(6) 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.

(7) 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.

(8) The amount of increase in the rental value of the holding caused by an improvement that is to be disregarded in accordance with sub-paragraph (5)(a) is the proportional amount of the increase corresponding to—

(a) the proportion of the cost of carrying out the improvement that was met at the tenant's expense (see sub-paragraph (9)), and

(b) the proportion of the cost of carrying out the improvement—

(i) that was met at the landlord's expense, and

(ii) in respect of which the landlord has received, or will receive, a grant.

(9) For the purposes of sub-paragraph (8)(a)—

(a) an improvement is to be regarded as having been carried out at the tenant's expense (wholly or partly as the case may) regardless of whether the tenant has been, or will be, reimbursed for the expense incurred by a grant,

(b) an improvement is not to be regarded as having been carried out at the tenant's expense (wholly or partly)—

(i) if the tenant has, in respect of the expense incurred in carrying out the improvement, been made or given an equivalent allowance or benefit by the landlord,

(ii) if the improvement was carried out under an obligation imposed on the tenant by the terms of the lease.

(10) For the purposes of sub-paragraph (8)(a), the continuous adoption by the tenant of a standard or system of farming more beneficial to the holding—

(a) than the standard or system required by the lease, or

(b) where no standard or system of farming is required by the lease, than the standard or system of farming normally practised on comparable holdings,

is to be considered an improvement carried out wholly at the tenant's expense.

(11) The matters referred to in sub-paragraph (5)(b) are—

(a) the dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the tenant,

(b) the use of the land or part of the land, or changes to the land, for a purpose that is not an agricultural purpose, or

(c) the carrying out of conservation activities on the land.",

(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) and (5).

(2) Before laying any draft Scottish statutory instrument containing regulations under this paragraph before the Scottish Parliament, 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.

**36 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 that is used 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 comparable tenancies,

(e) the prevailing economic conditions in the sectors of agriculture relevant to the land comprised in the lease.

(3) But in determining the fair rent for the tenancy, no account is to be taken of—

(a) the amount by which the rental value of the land has been increased by improvements to the extent determined in accordance with subsection (6),

(b) any reduction in the rental value of the land caused by a matter of a kind mentioned in subsection (9),

(c) any effect on the rent of the tenant being in occupation of the holding.

(4) 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.

(5) 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.

(6) The amount of increase in the rental value of the land caused by an improvement that is to be disregarded in accordance with subsection (3)(a) is the proportional amount of the increase corresponding to—

(a) the proportion of the cost of carrying out the improvement that was met at the tenant's expense (see subsection (7)), and

(b) the proportion of the cost of carrying out the improvement—

(i) that was met at the landlord's expense, and

(ii) in respect of which the landlord has received, or will receive, a grant.

(7) For the purposes of subsection (6)—

(a) an improvement is to be regarded as having been carried out at the tenant's expense (wholly or partly as the case may) regardless of whether the tenant has been, or will be, reimbursed for the expense incurred by a grant,

(b) an improvement is not to be regarded as having been carried out at the tenant's expense (wholly or partly)—

(i) if the tenant has, in respect of the expense incurred in carrying out the improvement, been made or given an equivalent allowance or benefit by the landlord,

(ii) if the improvement was carried out under an obligation imposed on the tenant by the terms of the lease.

(8) For the purposes of subsection (6)(a), the continuous adoption by the tenant of a standard or system of farming more beneficial to the land comprised in the lease—

(a) than the standard or system required by the lease, or

(b) where no standard or system of farming is required by the lease, than the standard or system of farming normally practised on comparable tenancies,

is to be considered an improvement carried out wholly at the tenant's expense.

(9) The matters referred in subsection (3)(b) to are—

(a) the dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the tenant,

(b) the use of the land or part of the land, or changes to the land, for a purpose that is not an agricultural purpose, or

(c) the carrying out of conservation activities on the land.

(10) 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) and (3).

(2) Before laying any draft Scottish statutory instrument containing regulations under this section before the Scottish Parliament, 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.

**37 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 estate management and husbandry*

**38 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".

**39 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.".

*Succession in relation to 1991 Act tenancies*

**40 Notice requirements: lease of 1991 Act holding**

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

(2) In section 11 (bequest of lease)—

(a) in subsection (1A), for paragraphs (b) to (n) substitute—

"(aa) a spouse or civil partner of—

(i) a tenant's descendant,

(ii) a tenant's sibling,

(ab) in relation to a tenant'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.",

(b) after subsection (1A) insert—

"(1B) For the purpose of subsection (1A)—

(a) a reference to a spouse or civil partner of a person ("person A") includes, where person A has died, a reference to a 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 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 subsection (1A)(a) is to be read as if the rules of intestacy applied accordingly).",

(c) after subsection (2) insert—

"(2A) A notice under subsection (2) must specify the legatee's relationship to the deceased tenant.",

(d) in subsection (3), for "date of the death of the deceased tenant" substitute "date of the deceased tenant's death".

(3) In section 12 (transfer of lease on intestacy), after subsection (1) insert—

"(1A) A notice under subsection (1) must specify the acquirer's relationship to the deceased tenant.".

**41 Landlord's objection to legatee or acquirer on intestacy: near relatives and other persons**

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

(2) In section 12A (landlord's objection to legatee or acquirer on intestacy: near relative)—

(a) in subsection (2), for "1 month after" substitute "the period of 28 days beginning with the date on which",

(b) in subsection (4)(a), for "of the notice" substitute "on which the notice is given",

(c) in subsection (5), for "1 month after" substitute "the period of 28 days beginning with the date on which",

(d) in subsection (7), for ", as from the date of the death of the deceased tenant." substitute "—

(a) in the case of the legatee, as from the date of the deceased tenant's death,

(b) in the case of the acquirer, as from the date on which the interest in the lease was transferred under section 16 of the Succession (Scotland) Act 1964.",

(e) for subsection (8), substitute—

"(8) Where the landlord does not apply to the Land Court under subsection (5), the deceased tenant'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

(a) in the case of the legatee, as from the date of the deceased tenant's death,

(b) in the case of the acquirer, as from the date on which the interest in the lease was transferred under section 16 of the Succession (Scotland) Act 1964.".

(3) In section 12B (landlord's objection to legatee or acquirer on intestacy: other persons)—

(a) for subsection (2) substitute—

"(2) The landlord may, within the period of 28 days beginning with the date on which notice is given under section 11(2) or 12(1), give to the person a counter-notice—

(a) intimating that the landlord objects to the person's succession to the tenancy,

(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 on which the counter-notice is given.",

(b) in subsection (3), for "the person may, within 1 month after" substitute "the person to whom it is given may, within the period of 28 days beginning with the date on which",

(c) after subsection (5) insert—

"(6) Where the Land Court quashes a counter-notice under subsection (4), the deceased tenant's lease of the holding is, accordingly, to be binding on the landlord and on the legatee or, as the case may be, acquirer, as landlord and tenant respectively—

(a) in the case of the legatee, as from the date of the deceased tenant's death,

(b) in the case of the acquirer, as from the date on which it was transferred under section 16 of the Succession (Scotland) Act 1964.".

**42 Legatee or acquirer on intestacy: supplementary provision**

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

(2) In section 12C (landlord's objection to legatee or acquirer on intestacy: supplementary provision)—

(a) for subsection (1) substitute—

"(1) From the date of the deceased tenant's death until the conclusion of any proceedings under section 12A or 12B, the legatee or, as the case may be, acquirer is entitled to possession of the holding in question.",

(b) for subsection (2) substitute—

"(2) But subsection (1) does not apply—

(a) where the executor in whom the deceased tenant's interest in the lease is vested under section 14 of the Succession (Scotland) Act 1964 objects, or

(b) where, on the application of the landlord, the Land Court directs otherwise on cause shown.".

*Succession in relation to 2003 Act tenancies*

**43 Succession to tenancy**

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

(2) In section 21 (bequest of lease)—

(a) in subsection (1A), for paragraphs (b) to (n) substitute—

"(aa) a spouse or civil partner of—

(i) a tenant's descendant,

(ii) a tenant's sibling,

(ab) in relation to a tenant'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.",

(b) after that subsection insert—

"(1B) For the purpose of subsection (1A)—

(a) a reference to a spouse or civil partner of a person ("person A") includes, where person A has died, a reference to a 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 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 subsection (1A) is to be read as if the rules of intestacy applied accordingly).",

(c) in subsection (2), in the opening words, for "11(2)" substitute "11(2), (2A)".

(3) In section 22 (right of landlord to object to acquirer of tenancy)—

(a) after subsection (1) insert—

"(1A) A notice under subsection (1) must specify the relationship to the deceased tenant of the person to whom the lease is transferred.",

(b) in subsection (3)(a)(ii), for "30 days of the giving of the notice" substitute "the period of 28 days beginning with the date on which the notice is given".

## PART 3

FINAL PROVISIONS

### 44 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).

### 45 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: sections 23(1) (see also sections 23(3) and 46) and 24 (see also sections 24(3) and 46) and, in schedule 2, paragraphs 4(3), 17(5), 19(8)(a), 53(4), 62(5), 63(7), 64(9), 69(8) and 72(1).

(3) Regulations under the following provisions are subject to the negative procedure: section 11(3) and, in schedule 2, paragraphs 15(3)(a) and (c), 17(4)(b), 19(8)(b), 49(3), 50(6), 58(2) and (6) and 61(4)(b).

(4) Regulations under section 44—

(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.

### 46 Further procedure for regulations under sections 23 and 24

(1) The Scottish Ministers may not lay before the Scottish Parliament for approval by resolution a draft Scottish statutory instrument containing regulations in relation to which this section applies—

(a) until they have consulted on proposals for the regulations in accordance with subsection (3) for the 60 day period described by subsection (4), and

(b) without laying before the Parliament, at the same time as the draft instrument, an explanatory document fulfilling the requirements set out in subsection (6).

(2) For the purposes of subsection (1)(a), proposals for regulations must take the form of—

(a) a draft of the regulations, and

(b) an explanatory document containing reasons for the draft regulations' content.

(3) To consult on proposals for regulations, the Scottish Ministers must—

(a) lay the proposals before the Scottish Parliament, and

(b) send a copy of them to any other person they consider it appropriate to consult.

(4) The 60 day period referred to in subsection (1)(a) begins with the day that the Scottish Ministers lay the proposals before the Parliament in accordance with subsection (3)(a).

(5) In calculating the 60 day period, no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.

(6) The requirements for the explanatory document referred to in subsection (1)(b) are that the document contain—

(a) reasons for the provisions contained in the draft instrument alongside which the document is laid before the Parliament,

(b) details of what was done to consult in relation to the proposals for the regulations,

(c) details of the representations received in relation to the proposals for the regulations during the 60 day period described by subsection (4),

(d) details of what changes (if any) were made as a result of those representations in turning the draft of the regulations that comprised the proposals into the regulations contained in the draft instrument.

(7) In complying with subsection (6)(c), the Scottish Ministers must not disclose—

(a) representations received from a person who has not consented to their being disclosed,

(b) information about a person ("person A") contained in representations received from another person if and to the extent that—

(i) it appears to the Scottish Ministers that disclosure of the information could adversely affect the interests of person A, and

(ii) the Scottish Ministers have been unable to obtain person A's consent to the disclosure of the information.

### 47 Commencement

(1) This Part, and section 11, come into force on the day after Royal Assent.

(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.

**48 Short title**

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

SCHEDULE 1
*(introduced by sections 1(6) and 6(5))*

MEANING OF CONNECTED PERSON

The following is the text referred to in sections 1(6) and 6(5)—

*"Persons connected through relationships described by the table*

2 (1) A person of a kind described in column 1 of the table is connected to a person described by the same row in column 2 (column 3 contains rules about the interpretation of expressions used in each row).

(2) For the avoidance of doubt—

(a) more than one row in the table may be applicable to a person,

(b) where a person described in column 1 of the table is connected to a person described by column 2, that also means the person described by column 2 is connected to the person described in column 1.

*Persons connected by reason of having a common connected person*

3 Where a person is connected to two or more other persons by reason of being a person described by column 2 of the table in relation to each of them (whether or not the other persons are all of a kind described in the same row of column 1), all of those persons are connected.

*The table referred to in paragraphs 2 and 3*

4 The following table is the one referred to in paragraphs 2 and 3.

| **1: Kind of person** | **2: Person connected** | **3: Interpretation** |
|---|---|---|
| A person that requires to be registered on account of being an owner of land in a public register kept in accordance with the Regulations | A person having a controlling interest in the person | • one person ("person A") has a controlling interest in another person ("person B") if the Regulations provide that person A is to be treated as having a controlling interest in person B<br>• "the Regulations" means the Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 (S.S.I. 2021/85) |
| A company | Another company in the same group | • "company" has the meaning given in section 288 of the Taxation of Chargeable Gains Act 1992 |

| 1: Kind of person | 2: Person connected | | 3: Interpretation |
|---|---|---|---|
| | | | • companies are in the same group if they are, or are included in a number of, companies which, by virtue of section 170 of that Act, together form part of a group for the purposes of sections 171 to 181 of that Act |
| A company that is required by section 790M of the Act to keep a register of people with significant control over the company | (a)<br>(b) | a registrable person in relation to the company<br>a registrable relevant legal entity in relation to the company | • "company" has the meaning given in section 1 of the Act<br>• "registrable person" and "registrable relevant legal entity" in relation to the company are to be construed in accordance with Part 21A of the Act (see in particular section 790C)<br>• "the Act" means the Companies Act 2006 |
| An unregistered company that, by virtue of the Regulations, is required to keep a register of people with significant control over the company | (a)<br>(b) | a registrable person in relation to the company<br>a registrable relevant legal entity in relation to the company | • "registrable person" and "registrable relevant legal entity" in relation to the company are to be construed in accordance with Part 21A of the Companies Act 2006, as modified by the Regulations<br>• "unregistered company" has the meaning given by regulation 2 of the Regulations<br>• "the Regulations" means the Unregistered Companies Regulations 2009 (S.I. 2009/2436) |
| A limited liability partnership ("LLP") that, by virtue of the Regulations, is required to keep a register of people with significant control over the LLP | (a)<br>(b) | a registrable person in relation to the LLP<br>a registrable relevant legal entity in relation to the LLP | • "registrable person" and "registrable relevant legal entity" in relation to the LLP are to be construed in accordance with Part 21A of the Companies Act 2006, as modified by the Regulations<br>• "limited liability partnership" has the same meaning as in regulation 3(1) of the Regulations |

| 1: Kind of person | 2: Person connected | 3: Interpretation |
|---|---|---|
| | | • "the Regulations" means the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804) |
| An eligible Scottish partnership | (a) a registrable person in relation to the partnership<br>(b) a registrable relevant legal entity in relation to the partnership | • "eligible Scottish partnership", and "registrable person" and "registrable relevant legal entity" in relation to the partnership, are to be construed in accordance with the Regulations (see in particular regulation 3)<br>• "the Regulations" means the Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694)". |

SCHEDULE 2
*(introduced by section 13)*

SMALL LANDHOLDINGS

**PART 1**

SMALL LANDHOLDINGS AND SMALL LANDHOLDERS

*Leases of small landholdings*

1 (1) A small landholding—

(a) is the land which is comprised in a lease to which this schedule applies, and

(b) includes any right held or to be held by the tenant under the lease alone or in common with others in pasture land or common grazings.

(2) This schedule applies to a lease if—

(a) the lease—

(i) is entered into after this paragraph comes into force,

(ii) is not a sub-lease, and

(iii) includes a term that the lease is one to which this schedule applies,

(b) immediately before the coming into force of this paragraph, the tenant under the lease is a landholder for the purposes of the Small Landholders (Scotland) Acts 1886 to 1931, or

(c) the lease is one to which this schedule applies by virtue of section 32(11) of the Small Landholders (Scotland) Act 1911 (provisions as to statutory small tenants) or section 14 of the Small Landholders and Agricultural Holdings (Scotland) Act 1931 (option to statutory small tenant to become landholder).

(3) Where the small landholding is subject to a lease mentioned in sub-paragraph (2)(b), the land comprised in the lease on the day on which this paragraph comes into force includes any site which, immediately before that day, is deemed to be part of the holding to which the lease applies under section 26(1) of the Small Landholders (Scotland) Act 1911.

*Persons who may be small landholders*

2 (1) A small landholder is the tenant under a lease of a small landholding.

(2) A small landholder must be an individual.

*Land which may not be, or be part of, a small landholding*

3 (1) A small landholding may not comprise or include the following—

(a) land which is situated in any of the crofting counties,

(b) land which is not—

(i) agricultural or pastoral land, or

(ii) the site of a dwelling-house, or any building or other structure pertaining to the dwelling-house,

(c) garden ground pertaining to a dwelling-house, the site of which is not comprised in the holding,

(d) land which is the site of, forms access to or surrounds an ancient monument or other object of historical or archaeological interest,

(e) land which is or forms part of an allotment under Part 9 of the Community Empowerment (Scotland) Act 2015.

(2) A small landholding—

(a) may not be comprised only of land mentioned in sub-paragraph (1)(b)(ii),

(b) may include such land whether or not it is contiguous to the other land of which the holding is comprised.

(3) Nothing in sub-paragraph (1)(b) prevents land comprising or included in a small landholding ceasing to be agricultural or pastoral land in accordance with a diversification agreement or an authorised diversification proposal.

(4) In this paragraph—

"authorised diversification proposal" is to be construed in accordance with paragraph 26(3),

"crofting counties" is to be construed in accordance with section 61 of the Crofters (Scotland) Act 1993,

"diversification agreement" means an agreement under paragraph 16(2).

*Size of small landholding*

4 (1) A small landholding must not exceed 20 hectares, unless sub-paragraph (2) applies.

(2) This sub-paragraph applies where—

(a) the lease of the holding is one mentioned in paragraph 1(2)(b), and

(b) the area of the holding immediately before this paragraph comes into force exceeds 20 hectares.

(3) The Scottish Ministers may by regulations modify this paragraph so as to—

(a) substitute a different area for the area for the time being mentioned in sub-paragraph (1),

(b) provide for land which is to be left out of account in calculating the size of a holding for the purposes of this paragraph.

(4) Where sub-paragraph (2) applies, the lease may not be varied so as to add to the subjects of the lease unless, following the variation, the area of the holding would not exceed the area for the time being mentioned in sub-paragraph (1).

*Duration of lease of small landholding*

5 (1) A lease of a small landholding—

(a) subsists until it is terminated in accordance with this schedule, and

(b) may not be terminated other than in accordance with this schedule.

(2) Any term (whether express or implied) of a lease of a small landholding which provides for—

(a) an ish, or

(b) the lease to end other than in accordance with this schedule,

is of no effect.

(3) The absence of an ish does not affect the validity of a lease of small landholding.

## PART 2

### RENT

*Rent*

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

(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*

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

(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—

(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 8 or 9 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).

*Application to Land Court to fix the rent*

8 (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—

(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

(c) 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—

(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 4, 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.

(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 7 altering the rent, or an order of the Land Court fixing the rent, which takes account of the use, or

(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—

(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,

(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.

(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,

(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.

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

9 (1) This paragraph applies where—

(a) the Land Court either—

(i) approves a diversification proposal in respect of a small landholding under paragraph 23(6)(a)(i), or

(ii) removes, under paragraph 25(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.

(3) Sub-paragraphs (5) to (8) of paragraph 8 apply to an order under sub-paragraph (2) as they apply to an order under paragraph 8(1).

*Land Court's powers in respect of rent arrears*

10 (1) The Land Court may, on the application of a small landholder to whom an application under paragraph 8(1) or 9(1)(b) (a "rent review application") relates, make an order 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 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 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—

(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 3

USE OF SMALL LANDHOLDING

*Conditions of let*

11 (1) A small landholder must comply with the conditions of let in sub-paragraph (2).

(2) The conditions are that the small landholder—

(a) must pay the rent due in respect of the landholder's small landholding when it falls due,

(b) must not use the holding other than for—

(i) cultivation,

(ii) a subsidiary or auxiliary purpose that is reasonable and not inconsistent with the cultivation of the holding,

(iii) a permitted diverse purpose,

(c) must, subject to any permitted diverse purpose, competently cultivate the holding, having regard to the rules of good husbandry,

(d) must, in respect of any permitted diverse purpose, comply with any conditions imposed by the landlord or the Land Court under Part 4 in respect of that purpose,

(e) must permit the landlord and persons authorised by the landlord to exercise the rights of access over the holding conferred by paragraph 13,

(f) must not erect or permit the erection of a dwelling-house on the holding otherwise than in accordance with paragraph 12,

(g) must not breach a term of an agreement entered into in respect of the holding, being a term which is for the benefit of the landlord or neighbouring small landholders which the Land Court considers reasonable in its terms,

(h) must not sub-let the holding without the consent of the landlord,

(i) must not assign the landholder's interest in the holding otherwise than in accordance with paragraphs 29 and 30, and

(j) must not become apparently insolvent within the meaning of section 16 of the Bankruptcy (Scotland) Act 2016.

(3) For the purpose of sub-paragraph (2), a "permitted diverse purpose" means a diverse purpose, within the meaning of Part 4, which is the subject of—

(a) a diversification agreement under paragraph 16(2), or

(b) an authorised diversification proposal within the meaning of paragraph 26(3).

(4) The Land Court may on the application of the landlord or the landholder determine whether a subsidiary or auxiliary purpose is reasonable and not inconsistent with the cultivation of the holding.

*Dwelling-houses*

12 (1) A small landholder may not erect a dwelling-house on the landholder's small landholding (whether or not as a replacement for another dwelling-house on the holding) without the prior written consent of the landlord unless sub-paragraph (2) or (3) applies.

(2) This sub-paragraph applies if—

(a) the landholder is a landholder mentioned in sub-paragraph (4), and

(b) no dwelling-house has ever been erected on the holding.

(3) This sub-paragraph applies if —

(a) the landholder is not a landholder mentioned in sub-paragraph (4), and

(b) the dwelling-house is erected to replace a dwelling-house which was on the holding when the Landholders Acts first applied to the holding.

(4) A landholder referred to in sub-paragraph (2)(a) and (3)(a) is a landholder who, immediately before paragraph 1 comes into force, is a new landholder for the purposes of section 2(1) of the Small Landholders (Scotland) Act 1911, or the successor of such a new landholder.

*Landlord's right of access*

13 (1) The landlord of a small landholding or a person authorised by the landlord may, subject to the conditions in sub-paragraph (2), enter the holding for the purpose of—

(a) cutting or taking—

(i) timber, other than timber and other trees planted by the small landholder or any predecessor in the tenancy, or which may be necessary for ornament or shelter,

(ii) peats, other than peats which may be required for the use of the holding,

(b) accessing the shore of the sea or any loch with or without vehicles for the purpose of exercising any right of property or other right belonging to the landlord,

(c) viewing or examining at reasonable times the condition of the small landholding including all buildings or improvements which it comprises,

(d) using a spring of water rising on the holding in accordance with paragraph 14,

(e) hunting, shooting, fishing or taking game, wild birds or vermin,

(f) opening or making any other road, fences, drains and water courses,

(g) mining, quarrying, taking, digging or searching for stone, marble, gravel, sand, clay, slate or any other mineral.

(2) The conditions referred to are—

(a) the landlord must give the landholder reasonable notice in writing before exercising the right of access in sub-paragraph (1),

(b) the right of access in sub-paragraph (1) must be exercised in such a way as to minimise damage to the holding insofar as is reasonably practicable.

(3) Notice given under sub-paragraph (2)(a) must specify the purpose for which access is to be taken.

(4) The landlord must pay reasonable compensation to the landholder for any damage caused to the holding, including in particular loss of or damage to crops or livestock, as a result of taking access for any of the purposes referred to sub-paragraph (1).

(5) The Land Court may, on the application of the landholder or the landlord, determine any dispute arising under this paragraph.

(6) For the purpose of sub-paragraph (1)(e), "game" means deer, hares, rabbits, pheasants, partridges, quails, grouse, woodcocks, snipes, widgeons and teals.

*Landlord's right to use water rising on holding*

14 (1) The landlord of a small landholding may, for any estate purpose, use any spring of water rising on the holding which is not required by the small landholder in connection with the use of the holding.

(2) The landlord must pay reasonable compensation to the landholder for any surface damage caused to the holding as a result of using a spring of water.

(3) The Land Court may, on the application of the landholder or the landlord, determine—

(a) whether a water spring is required by the landholder in terms of sub-paragraph (1),

(b) whether and, if so how much, compensation is payable under sub-paragraph (2) for damage caused to the holding.

(4) Nothing in this paragraph is to be construed as affecting the rights of any person other than the landlord and the landholder in relation to any spring of water on the holding.

*Compensation for damage caused by game or game management*

15 (1) This paragraph applies where neither the small landholder of a small landholding nor any other person with a right in the holding deriving from the landholder has—

(a) the right to kill and take game, or

(b) written permission from the landlord to do so.

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

(a) damage to crops grown, or seeds sown, for the purposes of cultivation, a subsidiary or auxiliary purpose or a permitted diverse purpose (within the meaning of paragraph 11(3)),

(b) damage to trees grown for the purposes of cultivation, a subsidiary or auxiliary purpose or a permitted diverse purpose (within the meaning of paragraph 11(3)),

(c) damage to fixed equipment,

(d) damage to livestock,

(e) damage to habitats.

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

(a) notice in writing is given to the landlord in such form and manner as the Scottish Ministers may prescribe by regulations as soon as reasonably practicable after the damage or injury was first observed by the landholder,

(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 landholder 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 sub-paragraph (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 the Scottish Ministers may prescribe by regulations within 6 months of the giving of notice under paragraph (a).

(4) This sub-paragraph applies if, in relation to the livestock—

(a) the landholder 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 paragraph.

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

(a) a small landholder's entitlement to compensation under sub-paragraph (2),

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

(c) the landlord's entitlement to be indemnified under sub-paragraph (5).

(7) In this paragraph—

"damage" in relation to livestock, includes suffering, injury or disease,

"game" means deer, pheasants, partridge 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.

## PART 4

### DIVERSIFICATION

*Diversification agreement*

16 (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*

17 (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—

(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—

(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 19(3)(a)(i) to (iii).

(4) The notice must—

(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.

(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

(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*

18 (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.

(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

(b) is necessary for the landlord's consideration of whether or not there are grounds under paragraph 19(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*

19 (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—

(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 18(1), the period of 60 days beginning with the day on which the request is made,

(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—

(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,

(b) where the notice specifies a matter mentioned in paragraph 17(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 18(3).

(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,

(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).

(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 17(2)(d), and

(ii) where the landlord has made a request for information under paragraph 18(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*

20 (1) This paragraph applies where a landlord notifies a small landholder under paragraph 19(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 19(1), and

(b) when the agreement is entered into, the landlord has not made an application to the Land Court under paragraph 23(2) in relation to the objection (but see paragraph 24).

(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 21(1), or

(b) make an application to the Land Court under paragraph 23(2) in relation to the objection,

is, instead of the period mentioned in paragraph 21(1) or (as the case may be) 23(3), the period of 90 days beginning with the day on which the objection is notified under paragraph 19(1)(b).

*Withdrawal of objection*

21 (1) A landlord may withdraw an objection to a diversification proposal notified to a small landholder under paragraph 19(1)(b) within the period of 60 days beginning with the day on which it is notified.

(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.

(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.

(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 17(2)(d), and

(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 23(2) in relation to the proposal.

*Withdrawal or modification of conditions*

22 (1) This paragraph applies where a landlord imposes conditions on a small landholder in relation to the implementation of a diversification proposal under paragraph 19(4) or 21(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—

(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 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*

23 (1) This paragraph applies where a landlord notifies a small landholder under paragraph 19(1)(b) that the landlord objects to a diversification proposal.

(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 19(1)(b).

(4) The Land Court may determine that the objection is—

(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—

(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.

(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

(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 19(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 21(1))—

(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 20(5)), and

(b) the proposal may be implemented from the later of—

(i) the date specified in the notice of diversification under paragraph 17(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)—

(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 17(2)(d), and

(ii) the date on which the proposal is treated as having been agreed to.

(10) An application purportedly made under sub-paragraph (2) after the end of the period mentioned in sub-paragraph (3) (as read with paragraph 20(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 23*

24 (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 23(2), but

(b) before the Land Court makes a determination in relation to that application under paragraph 23(4).

(2) The Land Court may, on the application of the landlord or the landholder, instead of determining the application under paragraph 23(4), determine that the diversification proposal to which the application relates—

(a) is not approved by the Court, and

(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 (1) Where a landlord imposes a condition on a small landholder under paragraph 19(4) or 21(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 19(5)(b) or (as the case may be) 21(3).

(3) Where a landlord modifies a condition under paragraph 22(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 22(3).

(5) In deciding whether or not a condition is unreasonable, 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

(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 19(3)(a)(i) to (iii)) to which the condition relates.

(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*

26 (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.

(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—

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

(b) approved by the Land Court under paragraph 23(6)(a)(i).

*Interpretation of Part*

27 In this Part—

"diverse purpose" has the meaning given by paragraph 16(2),

"diversification agreement" means an agreement under paragraph 16(1),

"diversification proposal" has the meaning given by paragraph 17(6),

"notice of diversification" has the meaning given by paragraph 17(1).

## PART 5

DISPOSAL OF HOLDING BY SMALL LANDHOLDER

### CHAPTER 1

RENUNCIATION

*Renunciation of tenancy by small landholder*

28 (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 sub-paragraph (3) applies, unless the landlord agrees otherwise, the tenancy may be renounced only with effect as from the same term of Whitsunday or Martinmas from which it took effect.

(3) This sub-paragraph applies where, immediately before the coming into force of paragraph 1, the tenancy is held by 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

*Ability to assign*

29 (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 assignation.

(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) a spouse or civil partner of—

(i) a landholder's descendant,

(ii) a landholder's sibling,

(c) in relation to a 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 a spouse or civil partner of a person ("person A") includes, where person A has died, a reference to a 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 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).

(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 assignation") at least 70 days prior to the date on which the assignation takes effect, and

(b) specify in the notice—

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

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

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

(5) A landlord who is given a notice of proposed assignation is deemed to consent to the proposed assignation 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 assignation is withheld, and

(b) setting out the landlord's grounds for withholding consent (see paragraph 30).

(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 30(6), is, in so far as it so purports, null and void.

*Landlord's objection to assignation*

30 (1) Where an assignation is proposed in accordance with paragraph 29 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

(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—

(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 assignation 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 29(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—

(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.

(5) If a landlord gives a notice under paragraph 29(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.

(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 29(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.

(9) For the purposes of this paragraph and paragraphs 33 and 34, a near relative, in relation to a small landholder, means—

(a) a landholder's parent,

(b) in relation to a landholder's child—

(i) that child,

(ii) that child's spouse or civil partner,

(iii) a descendant of that child,

(c) in relation to a landholder's sibling—

(i) that sibling,

(ii) that sibling's spouse or civil partner,

(iii) a descendant of that sibling,

(d) in relation to a 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,

(iv) a descendant of such a sibling.

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

(a) a reference to a spouse or civil partner of a person ("person A") includes, where person A has died, a reference to a 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*

31 (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) a spouse or civil partner of—

(i) a landholder's descendant,

(ii) a landholder's sibling,

(c) in relation to a 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 a spouse or civil partner of a person ("person A") includes, where person A has died, a reference to a 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.

(7) Unless a counter-notice is given by the landlord in accordance with paragraph 33(2) or 34(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 small landholder respectively, from the date of the deceased's death.

*Intestate succession to holding*

32 (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—

(i) is not accepted by the legatee,

(ii) is the subject of a counter-notice under paragraph 34(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

(iii) is declared, or confirmed, to be null and void by the Land Court under paragraph 33(6)(a) or 34(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—

(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.

(4) Unless a counter-notice is given by the landlord in accordance with paragraph 33(2) or 34(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 small landholder respectively, from the date on which the deceased landholder's interest in the small landholding was transferred under section 16 of the Succession (Scotland) Act 1964.

*Landlord's objection to successor: near relatives*

33 (1) This paragraph applies where a landlord is given a notice under paragraph 31(5) or 32(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

(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,

(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—

(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 31(5) or 32(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.

(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.

(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,

(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 small landholder respectively—

(a) in the case of the legatee, from the date of the deceased landholder's death,

(b) in the case of the acquirer, from the date on which the deceased landholder's interest in the small landholding was transferred under section 16 of the Succession (Scotland) Act 1964.

(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 small landholder respectively—

(a) in the case of the legatee, from the date of the deceased landholder's death,

(b) in the case of the acquirer, from the date on which the deceased landholder's interest in the small landholding was transferred under section 16 of the Succession (Scotland) Act 1964.

*Landlord's objection to successor: other persons*

34 (1) This paragraph applies where a landlord is given a notice under paragraph 31(5) or 32(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—

(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.

(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,

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 small landholder respectively—

(a) in the case of the legatee, from the date of the deceased landholder's death,

(b) in the case of the acquirer, from the date on which the deceased landholder's interest in the small landholding was transferred under section 16 of the Succession (Scotland) Act 1964.

(7) A decision of the Land Court under this paragraph is final.

*Landlord's objection to successor: right to temporary occupation*

35 (1) From the date of the deceased small landholder's death until the conclusion of any proceedings under paragraph 33 or 34, 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

(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 6

### REMOVAL OF SMALL LANDHOLDER

*Security of tenure*

36 A small landholder may be removed from a small landholding only in accordance with an order made by the Land Court under paragraph 37 (removal for breach of conditions) or under paragraph 38 (resumption).

*Removal for breach of conditions*

37 (1) The Land Court may, on the application of the landlord of a small landholding, make an order for the removal of the small landholder from the holding, if satisfied that one or more of the grounds for removal in sub-paragraph (2) is met.

(2) The grounds for removal are that the landholder has—

(a) failed to pay at least one year's rent due in respect of the small landholding when it fell due,

(b) used the holding other than for—

(i) cultivation,

(ii) a subsidiary or auxiliary purpose that is reasonable and not inconsistent with the cultivation of the holding, or

(iii) a permitted diverse purpose (within the meaning of paragraph 11(3)),

(c) failed, subject to any permitted diverse purpose (within the meaning of paragraph 11(3)), to competently cultivate the holding resulting in the dilapidation of any buildings on the holding or deterioration of the soil,

(d) failed, in respect of any permitted diverse purpose (within the meaning of paragraph 11(3)), to comply with a condition imposed by the landlord or the Land Court under Part 4 in respect of that purpose,

(e) failed to permit the landlord or a person authorised by the landlord to exercise rights of access in pursuance of paragraph 13,

(f) erected or permitted the erection of a dwelling-house on the holding otherwise than in accordance with paragraph 12,

(g) breached a term of an agreement entered into in respect of the small landholding, being a term which is for the benefit of the landlord or neighbouring small landholders which the Land Court considers reasonable in its terms,

(h) sub-let the holding without the consent of the landlord,

(i) entered into an arrangement purporting to assign the landholder's interest in the small landholding otherwise than in accordance with paragraphs 29 and 30, or

(j) become apparently insolvent within the meaning of section 16 of the Bankruptcy (Scotland) Act 2016.

(3) Before making an order under sub-paragraph (1) the court must have regard to any representations from the small landholder.

*Resumption by landlord*

38 (1) The landlord of a small landholding may apply to the Land Court to resume all or part of the holding for a reasonable purpose related to the good of the holding or the landlord's estate.

(2) For the purpose of sub-paragraph (1), "reasonable purpose" includes—

(a) using or letting the land proposed to be resumed for—

(i) the building of dwellings,

(ii) allotments,

(iii) harbours, piers, boat shelters or other like buildings,

(iv) places of religious worship,

(v) schools,

(vi) halls or community centres,

(vii) planting,

(viii) roads practicable for vehicular traffic from the holding to the public road or to the seashore,

(b) the protection of an ancient monument or other object of historical or archaeological interest from injury or destruction.

(3) A landlord cannot resume a small landholding for the purpose of personally residing on it.

(4) Where the Land Court is satisfied that the landlord has a reasonable purpose for the resumption, the Court may make an order—

(a) requiring the landholder to vacate the land which is to be resumed once the landlord has compensated the landholder in such manner as is specified in the order,

(b) making such other provision in relation to the resumption as the Court considers appropriate.

(5) For the purpose of sub-paragraph (2)(a), "public road" is to be construed in accordance with section 151 of the Roads (Scotland) Act 1984.

## PART 7

COMPENSATION

### CHAPTER 1

RIGHT TO COMPENSATION

*Small landholder's right to compensation*

39 (1) Paragraphs 40 and 41 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 28),

(c) a small landholder enters into a new tenancy, to which this schedule does not apply, of the land comprising the landholder's small landholding, or

(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—

(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 33(6), or

(c) following such transfer, the tenancy is the subject of a counter-notice under paragraph 34(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 34(5).

(3) Where paragraphs 40 and 41 apply by reason of sub-paragraph (1)(d)—

(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

(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 this schedule applies.

*Small landholder's right to compensation: improvements*

40 (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,

(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*

41 (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 4.

(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—

(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.

(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*

42 (1) Paragraphs 43 and 44 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 28),

(c) a small landholder enters into a new tenancy, to which this schedule does 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.

(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 33(5), or

(c) following such transfer, the tenancy is the subject of a counter-notice under paragraph 34(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 34(5).

(3) Where paragraphs 43 and 44 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.

(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 this schedule applies.

(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.*

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

(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 4.

(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,

(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—

(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*

44 (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 4.

(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*

45 (1) Compensation is recoverable by a landlord under paragraph 43 or 44 only where—

(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.

(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

COMPENSATION: ANCILLARY PROVISION

*Outstanding rent*

46 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.

*Compensation to outgoing landholder by incoming landholder*

47 (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.

(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

(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*

48 (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—

(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.

(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,

(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,

(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*

49 (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.

(2) An 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*

50 (1) This paragraph applies where the Tenant Farming Commissioner is given an application under paragraph 49.

(2) The Commissioner must appoint a person (referred to in this Part as the "valuer") to carry out the assessment mentioned in paragraph 53(1).

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

(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.

(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).

*Objection to valuer appointed by Tenant Farming Commissioner*

51 (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 50(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,

(b) does not possess the qualifications, knowledge and experience mentioned in paragraph 50(3)(b).

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

(a) must—

(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 50(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.

(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*

52 (1) Where a valuer is appointed under paragraph 50(2) or 51(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,

(b) where there is no compensation award, the person who made the application under paragraph 49(1).

(2) Where, in the case of a valuer appointed under paragraph 50(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).

(3) For the purpose of sub-paragraph (1), a compensation award is in a person's favour where, ignoring the effect of paragraph 46, the compensation payable to the person under this Part exceeds the compensation payable by the person under it.

*Assessment of compensation*

53 (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.

(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.

(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.

(5) Before laying a draft of a Scottish statutory instrument containing regulations under sub-paragraph (4) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.

*Notice of assessment*

54 (1) The valuer must—

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

(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—

(a) the day after the day on which the period for applying under paragraph 51(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.

(3) A notice of assessment must—

(a) specify the amount, assessed under paragraph 53, of compensation—

(i) to which the landholder is entitled under paragraphs 40 and 41,

(ii) to which the landlord is entitled under paragraphs 43 and 44,

(b) specify the date of valuation of each of the amounts mentioned in paragraph (a),

(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*

55 (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

(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 53 (and any factor affecting the amount).

(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 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.

(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*

56 (1) This paragraph applies where, in an appeal before the Lands Tribunal under paragraph 55, 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 8

### RIGHT TO BUY

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

57 (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 58.

(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 60(4), an entry specifying the date on which that is effected.

*Registration of small landholder's interest in buying land*

58 (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.

(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

(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.

(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.

*Owner's challenge to registration*

59 (1) This paragraph applies where the Keeper gives the owner of land comprising a small landholding, under paragraph 58(4)(b), an extract of the registration of the small landholder's interest in buying the land comprising the holding.

(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—

(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)—

(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.

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

*Duration of registration*

60 (1) The registration under paragraph 58(4)(a) of a small landholder's interest in buying land—

(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 59(4)(a),

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

(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

(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 58(1) to have the interest registered again (with or without modification of the matters specified in the notice of interest).

(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*

61 (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 58(4)(a), and

(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.

(3) But sub-paragraph (2) does not apply if the transfer is an exempt transfer for the purposes of this paragraph (see paragraph 62).

(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.

(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.

*Transfers not requiring notice*

62 (1) A transfer of land is an exempt transfer for the purposes of paragraph 61 if the transfer is or (as the case may be) would be—

(a) otherwise than for value,

(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,

(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,

(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 58,

(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,

(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 61 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).

(6) Before laying a draft of a Scottish statutory instrument containing regulations under sub-paragraph (5) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.

*Right to buy*

63 (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,

(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 62(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).

(8) Before laying a draft of a Scottish statutory instrument containing regulations under sub-paragraph (7) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.

*Exercise of right to buy*

64 (1) Where a small landholder has a right to buy land under paragraph 63(2) by virtue of paragraph 63(1)(a), the landholder may proceed in accordance with paragraph 66 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 63(2) by virtue of paragraph 63(1)(b), the landholder may proceed in accordance with paragraph 66 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 63(6), the landholder may proceed in accordance with paragraph 66 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.

(6) If, at any time, the landholder does not intend to proceed, in accordance with paragraph 66, 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),

(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).

(8) A landholder giving any notice under this paragraph must give a copy of the notice to the Keeper.

(9) The Scottish Ministers may by regulations make provision for a period within which any notice given by a landholder under sub-paragraph (3) is to be given.

(10) Regulations under sub-paragraph (9) may modify this paragraph.

*Effect of extinguishing right to buy*

65 Where a small landholder's right to buy land is extinguished under paragraph 64(7) or 66(9), the landholder may acquire a subsequent right to buy the same land or any part of it under paragraph 63(2), but only if—

(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.

*Procedure for buying*

66 (1) It is for the small landholder to make the offer to buy in exercise of the landholder's right to buy under paragraph 63.

(2) The offer is to be at a price—

(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 68(9), or

(ii) if the price is determined in an appeal under paragraph 70, as is so determined.

(3) The offer must specify the date of entry and of payment of the price in accordance with sub-paragraph (4).

(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 64 of the landholder's intention to buy,

(b) where the price payable by the landholder is the subject of an appeal under paragraph 70 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*

67 (1) Where the price to be paid for land is not agreed between the seller and the small landholder as mentioned in paragraph 66(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.

(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 64 of the landholder's intention to buy.

(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

(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.

*Valuation of the land*

68 (1) A valuer appointed under paragraph 67 is to assess the value of the land in respect of which a small landholder's right to buy under paragraph 63 is being exercised as at—

(a) the date of notice under paragraph 61 of the seller's proposal to transfer the land, or

(b) where no such notice was given, the date on which the landholder gave notice under paragraph 64 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

(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,

(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

(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—

(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,

(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

(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—

(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.

(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

(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 64 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.

(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 69, as comprising—

(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 66(2)(b)(i), the price payable by a landholder is—

(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*

69 (1) A valuer appointed under paragraph 67 is—

(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—

(a) the seller and the small landholder to whom the assessment under paragraph 68 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—

(a) the valuation of the land under paragraph 68, 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 68—

(a) enter onto land, and

(b) make any reasonable request of the seller and landholder.

(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 68(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 68 and this paragraph are to be—

(a) met by the landholder, or

(b) where sub-paragraph (2) of paragraph 67 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—

(a) the Land Court has made an order under paragraph 66(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 67 and 68.

*Appeal to Lands Tribunal against valuation*

70 (1) The seller or the small landholder to whom a valuation carried out under paragraph 68 relates may appeal to the Lands Tribunal against the valuation.

(2) An appeal under this paragraph must—

(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 69(5).

(3) In an appeal under this paragraph, the Lands Tribunal may—

(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 66(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—

(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—

(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*

71 (1) This paragraph applies where, in an appeal before the Lands Tribunal under paragraph 70, 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.

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

72 (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.

(2) In particular (but without limit to that generality), regulations under sub-paragraph (1) may—

(a) make provision about—

(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,

(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 57 to 63,

(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 sub-paragraph (1) before the Scottish Parliament, the Scottish Ministers must consult—

(a) the Keeper,

(b) such persons as the Scottish Ministers consider representative of the interests of small landholders and their landlords, and

(c) 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*

73 In this Part—

"eligible creditor" has the meaning given by paragraph 61(6),

"Keeper" has the meaning given by paragraph 57(1),

"notice of a proposal to transfer land" means notice given under paragraph 61(2),

"Register" has the meaning given by paragraph 57(1),

"seller" has the meaning given by paragraph 66(2)(a).

## PART 9

### ALTERNATIVE DISPUTE RESOLUTION

*Agreement to resolve matters other than by application to Land Court*

74 (1) Where this schedule makes provision for any matter to be determined by the Land Court, the matter may, if the landlord and small landholder agree at or after the time when the matter arises, instead be determined by another method of resolving the matter (including arbitration).

(2) Sub-paragraph (1) does not apply in relation to any matter which may be determined by the Land Court—

(a) in pursuance of—

(i) paragraph 11(4) (whether a subsidiary or auxiliary purpose is reasonable and not inconsistent with the cultivation of the holding),

(ii) any question or difference between the landlord and landholder arising in relation to Part 5 (disposal of holding by the landholder: renunciation, assignation or succession),

(iii) any question or difference between the landlord and landholder arising in relation to Part 6 (removal of the landholder: breach of lease conditions, resumption by landlord),

(iv) paragraph 84 (whether a term of a contract or agreement contracting out of a provision of this schedule is to be approved), or

(b) on appeal.

*Arbitration: procedure etc.*

75 (1) This paragraph applies to any arbitration to which a matter is referred by the landlord and small landholder under paragraph 74(1).

(2) The agreement of the parties to refer the matter to arbitration has the effect of depriving each party of the right to—

(a) have the matter heard (or any issue in relation to the matter determined) by the Land Court (other than on appeal), and

(b) agree under paragraph 74(1) to another method of resolving the matter.

(3) The landlord and landholder are to agree whether the arbitration is conducted by—

(a) a single arbitrator, or

(b) two arbitrators (with or without an overseer),

and the arbitrator or, as the case may be, each arbitrator, may be appointed by the parties or by a person nominated by them.

(4) The procedure to be followed at arbitration (including any matters to be taken into account by the arbitrator and the matters to be contained in the award) are, subject to sub-paragraph (5), to be as the parties agree or, in the absence of such agreement, as the arbitrator considers appropriate.

(5) Any provision of this schedule that would apply to the Land Court as respects its consideration or determination of any matter had the matter not been referred to arbitration applies as respects the consideration or determination of the matter by arbitration.

(6) Any party to the arbitration may appeal to the Land Court against the arbitrator's award on a question of law within 28 days of the award.

(7) In an appeal under sub-paragraph (6) the Court may—

(a) quash, confirm or vary the award or any part of it, and

(b) where the Court quashes the award or any part of it—

(i) remit the case to the arbitrator for further procedure, and

(ii) direct the arbitrator on any question of law relevant to the case.

*Conduct of arbitrator and setting aside of arbitrator's award*

76 (1) Any person with an interest in a matter determined by an arbitration to which paragraph 75 applies that has reasonable grounds for believing that—

(a) there has been material misconduct by the arbitrator, or

(b) the arbitration has been improperly procured,

may make an application to the Land Court for an order under sub-paragraph (2).

(2) Where, on such an application, the Land Court is satisfied that—

(a) there has been material misconduct by the arbitrator, or the arbitration has been improperly procured, it may make an order setting aside the arbitrator's award,

(b) there has been material misconduct by the arbitrator, it may make an order removing the arbitrator.

## PART 10

CONSEQUENTIAL MODIFICATIONS

*Repeal and disapplication of existing law*

77 (1) The following enactments are repealed—

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

(i) sections 1 to 33,

(ii) the schedule,

(b) in the Crofters Holdings (Scotland) Act 1887, sections 3 and 4,

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

(i) section 2(2),

(ii) section 5,

(iii) section 7(1) to (18),

(iv) section 8(1) to (3),

(v) sections 9 and 10,

(vi) sections 12 and 13,

(vii) sections 15 to 23,

(viii) section 26(4) to (6), (8) and (9),

(ix) section 29,

(x) in section 31, the definition of "statutory successors",

(xi) section 33,

(xii) section 35,

(xiii) section 39,

(xiv) the First Schedule,

(d) in the Land Settlement (Scotland) Act 1919—

(i) sections 9 to 12,

(ii) sections 15 and 16,

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

(i) sections 1 to 12,

(ii) sections 15 to 17,

(iii) sections 19 to 22,

(iv) section 25,

(v) in section 26, the definitions of "the Act of 1886", "the Act of 1919" and "the Landholders Acts".

(2) Except as provided in sub-paragraphs (3) and (4), nothing in the Landholders Acts applies in relation to small landholders, landlords of small landholders or small landholdings.

(3) The enactments mentioned in sub-paragraph (4) apply in relation to—

(a) small landholders as if they were landholders for the purposes of the Landholders Acts,

(b) rights held or to be held in pasture land or common grazings by small landholders as if they were rights held or to be held in such land or grazings by landholders under those Acts.

(4) The enactments are—

(a) the Crofters Common Grazings Regulation Act 1891,

(b) section 24 of the Small Landholders (Scotland) Act 1911,

(c) section 23 of the Small Landholders and Agricultural Holdings (Scotland) Act 1931.

*Crofters Holdings (Scotland) Act 1887*

78 (1) The Crofters Holdings (Scotland) Act 1887 is modified as follows.

(2) In section 2 (stay of proceedings for sale of crofter's effects), the words from "The powers" to the end are repealed.

*Small Landholders (Scotland) Act 1911*

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

(2) In section 14 (adjustment of rights by Land Court)—

(a) the existing words become subsection (1),

(b) in that subsection—

(i) for the words "resumption by the landlord, or in the case of an existing yearly tenant or a qualified leaseholder or" substitute "the lease of a",

(ii) for the words "a landholder" in the first place they appear substitute "a lease of a small landholding",

(iii) after "as" in the second place it appears insert "at",

(iv) for the words "such tenant or leaseholder becomes a landholder, as the case may be," substitute "the lease becomes a lease of a small landholding",

(c) after that subsection insert—

"(2) For the purposes of subsection (1), a lease of a small landholding is a lease to which schedule 2 of the Land Reform (Scotland) Act 2025 (small landholdings) applies.".

(3) In section 32 (provisions as to statutory small tenants)—

(a) in subsection (1), for the words "section sixteen of the Act of 1886" substitute "paragraph 31(2) and (3) of schedule 2 of the 2025 Act",

(b) in subsection (11), for the words from "the tenant shall" to the end substitute "the lease giving rise to the tenancy will become, from the date specified in the finding, a lease to which schedule 2 of the 2025 Act applies",

(c) in subsection (14)—

(i) the words "Subsection (4) of section six, section and section twenty of the Act of 1886, section 2 of the Act of 1887 down to the word "summarily," and" and "section twelve, section twenty-five" are repealed,

(ii) for the word "apply" in the last place it appears substitute "applied",

(d) after subsection (14) insert—

"(14A) Paragraphs 8(7), 10(1), 14, 74, 75 and 76 of schedule 2 of the 2025 Act apply for the purposes of this section as they apply in relation to small landholders and small landholdings within the meaning of paragraph 86 of that schedule, subject to the following modifications—

(a) in paragraph 8(7) for the words "the rent under sub-paragraph (1)" substitute "an equitable rent under section 32(7) of the Small Landholders (Scotland) Act 1911",

(b) in paragraph 74—

(i) in sub-paragraph (1), for the words "this schedule makes" substitute "the Small Landholders (Scotland) Acts 1886 to 1931 make",

(ii) for sub-paragraph (2)(a) substitute—

"(a) in pursuance of—

(i) section 32(4) of the Small Landholders (Scotland) Act 1911 (dispute about renewal of statutory small tenancy),

(ii) section 32(11) of that Act (landlord's failure to provide or maintain buildings or permanent improvements: whether lease is to become one to which this schedule applies),

(iii) section 32(13) of that Act (whether a person is a statutory small tenant),

(iv) section 32(15) of that Act (authorisation of resumption by landlord),".",

(e) in subsection (15), for the words "section nineteen of this Act" substitute "paragraph 38(2) of schedule 2 of the 2025 Act",

(f) after subsection (15) insert—

"(16) In this section—

"2025 Act" means the Land Reform (Scotland) Act 2025,

"permanent improvements" has the meaning given by paragraph 40(3) of schedule 2 of the 2025 Act.".

*Small Landholders and Agricultural Holdings (Scotland) Act 1931*

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

(2) For section 14 substitute—

**"14 Option to statutory small tenant to become small landholder**

(1) The lease which gives rise to a statutory small tenancy becomes a lease of a small landholding if—

(a) not later than one month before the end of the period of the tenancy, the statutory small tenant gives the landlord written notice that the tenant wishes the lease to become a lease of a small landholding, and

(b) the landlord does not, before the expiry of the period of one month beginning with the day on which the notice is given, give the tenant a counter-notice stating that paragraph 27 of that schedule (in relation to rights to compensation for permanent improvements) is to apply as if the lease were a lease of a small landholding.

(2) Where a lease becomes a lease of a small landholding by virtue of subsection (1), it does so on the expiry of the period of the tenancy current when the notice mentioned in subsection (1)(a) is given.

(3) Where the landlord gives the tenant a counter-notice referred to in subsection (1)(b), paragraph 40 of schedule 2 of the Land Reform (Scotland) Act 2025 (in relation to rights to compensation for permanent improvements) applies to the lease of the statutory small tenancy as if the lease were a lease of a small landholding.

(4) For the purposes of this section, a lease of a small landholding is a lease to which schedule 2 of the Land Reform (Scotland) Act 2025 (small landholdings) applies.".

*Succession (Scotland) Act 1964*

81 (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 33 or 34 of schedule 2 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 33 or 34 of schedule 2 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 32(1), 33 and 34 of schedule 2 of the 2025 Act,",

(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 86 of schedule 2 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 33 or 34 of schedule 2 of the Land Reform (Scotland) Act 2025".

*Crofters (Scotland) Act 1993*

82 (1) The Crofters (Scotland) Act 1993 is modified as follows.

(2) In section 3A (new crofts), for subsection (3)(a) substitute—

"(a) the tenancy of the holding is—

(i) one to which section 32 of the Small Landholders (Scotland) Act 1911 applies; or

(ii) held under a lease to which schedule 2 of the Land Reform (Scotland) Act 2025 (small landholdings) applies; and".

*Scottish Land Court Act 1993*

83 (1) The Scottish Land Court Act 1993 is modified as follows.

(2) In section 1 (the Land Court), in subsection (6), for the words "or the Small Landholders (Scotland) Acts 1886 to 1931" substitute ", the Small Landholders (Scotland) Acts 1886 to 1931 or schedule 2 of the Land Reform (Scotland) Act 2025 (small landholdings)".

## PART 11

GENERAL AND INTERPRETATION

*Restriction on contracting out of small landholders' statutory rights*

84 Any term of a contract or agreement entered into by a small landholder purporting to deprive the small landholder of a right conferred on the small landholder by this schedule is void unless the contract or agreement is approved by the Land Court.

*Restriction on contracting out of rights to apply to Land Court*

85 Any term of—

(a) a lease to which this schedule applies, or

(b) any agreement in connection with such a lease (other than an agreement under paragraph 74(1)),

that makes provision restricting any right of the landlord or small landholder to apply to the Land Court by virtue of this schedule to have a matter determined by the Court is, so far as it makes that provision, of no effect.

*Interpretation*

86 In this schedule—

"cultivation" means the use of land for horticulture or husbandry and references to "cultivate" are to be construed accordingly,

"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" has the meaning given by paragraph 2(1),

"small landholding" has the meaning given by paragraph 1(1).

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