



Land Reform (Scotland) Act 2003

2003 asp 2

PART 2

THE COMMUNITY RIGHT TO BUY

CHAPTER 2

REGISTRATION OF INTERESTS

39 Procedure for late applications

[^{F1}(1) This section (other than subsections (4A) and (5)) applies in relation to an application to register a community interest in land which satisfies—

- (a) the conditions mentioned in subsection (1A), or
- (b) the condition mentioned in subsection (1B).

(1A) The conditions are that—

- (a) before the date on which the application is received by Ministers, the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has taken action which, if a community interest had been registered, would be prohibited under section 40(1), and
- (b) on the date on which the application is received by Ministers—
 - (i) missives for the sale and purchase of the land in pursuance of that action have not been concluded, or
 - (ii) an option to acquire the land in pursuance of that action has not been conferred.

(1B) The condition is that, where another community body has registered an interest in the land, the application is received by Ministers—

- (a) after the date on which the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has, under section 48(1), notified that community body that a transfer is proposed, and
- (b) before Ministers have consented, under section 51(1), to a transfer to that community body.]

Changes to legislation: There are currently no known outstanding effects for the *Land Reform (Scotland) Act 2003, Section 39. (See end of Document for details)*

- (2) Where this section applies in relation to an application—
- (a) the owner of the land or, as the case may be, such a creditor shall, on receipt of an invitation under section 37 above, inform Ministers that this section applies; and
 - [^{F2}(aa) Ministers may, before the end of the period of 7 days following receipt of the views of the owner of the land or, as the case may be, such a creditor under that section, request—
 - (i) the owner, such a creditor or the community body making the application to provide such further information as they consider necessary in connection with their being informed as mentioned in paragraph (a), and
 - (ii) that the further information be supplied within 14 days of the request,]
 - (b) the procedure for registering community interests in land set out in section 37 above is, for the purposes of the application, subject to the following modifications—
 - (i) paragraph (b) of subsection (9) does not apply; and
 - (ii) in subsection (17), for “63” there is substituted “30” [^{F3}or (in a case where further information is requested under paragraph (aa)) “44”].
- (3) Where this section applies in relation to an application, Ministers shall 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 above) satisfied—
- [^{F4}(a) that—
 - (i) such relevant work as Ministers consider reasonable was carried out by a person, or
 - (ii) such relevant steps as Ministers consider reasonable were taken by a person,
 - (aa) that the relevant work was carried out or the relevant steps were taken—
 - (i) at a time which, in the opinion of Ministers, was sufficiently in advance of the owner of the land or, as the case may be, the creditor taking the action such as is mentioned in subsection (1A), or giving notice such as is mentioned in subsection (1B),
 - (ii) in respect of land with a view to the land being used for purposes that are the same as those proposed for the land in relation to which the application relates, and
 - (iii) by the community body making the application or by another person with a view to the application being made by the community body,
 - (ab) that—
 - (i) in the period of 12 months before the application is received by Ministers, the owner of the land or, as the case may be, the creditor taking the action such as is mentioned in subsection (1A) did not make an offer to sell the land to the community body or a similar community body, or
 - (ii) in that 12 month period, the owner of the land or, as the case may be, the creditor did make an offer to sell the land to the community body or a similar community body and, in the opinion of Ministers, there are good reasons why the body did not purchase the land,]
 - (b) that the level of support within the community for such registration is significantly greater than that which Ministers would, by virtue of

Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Section 39. (See end of Document for details)

subsection (2) of that section, have considered sufficient for the purposes of subsection (1)(d) of that section had the application been received before that action was taken or, as the case may be, the notice was given; and

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

[^{F5}(3A) Despite subsection (3), Ministers may decide that a community interest is to be entered in the Register even though the conditions in paragraphs (a) and (aa) of that subsection are not satisfied in relation to the interest, if Ministers are satisfied that there are good reasons—

- (a) why the conditions are not satisfied, and
(b) for allowing the interest to be entered in the Register.

(3B) Ministers may, before the end of the period of 7 days following receipt under section 37(5) of the views of the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land, request—

- (a) any person they believe may be able to provide them with such further information as they consider necessary in connection with the matters mentioned in subsection (3) to provide the information, and
(b) that the information be supplied within 14 days of the request.]

(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) below that a transfer is proposed;
(b) section 49 below does not apply in so far as it relates to that interest; and
(c) for the purposes of sections 55(2) and (4), 56(3), 59(1)[^{F6}, 60A(1)] and 65(1)(a) below, the community body is deemed to have sent the confirmation which Ministers would, had section 49 below applied, have required to seek under subsection (2)(a) of that section on the date on which the interest is registered.

[^{F7}(4A) Subsection (5) applies in relation to an application to register a community interest in land where the application is received by Ministers after the following have occurred—

- (a) the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has taken action which, if a community interest in land had been registered, would be prohibited under section 40(1), and
(b) either—
(i) missives for the sale and purchase of the land are concluded, or
(ii) an option to acquire the land is conferred.]

(5) ^{F8}... Ministers—

- (a) shall decline to consider the application; and
(b) shall be relieved of their duties under subsections (5) to (10), and paragraphs (b) and (c) of subsection (17), of section 37 above in relation to that application.

[^{F9}(6) In subsection (3)—

“ relevant work ” means anything done by way of preparation of an application to register a community interest in land,

Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Section 39. (See end of Document for details)

“ relevant steps ” means any steps towards securing ownership of land by a community body.

(7) In subsection (3)(ab)—

- (a) references to “the land” include land that is, in the opinion of Ministers, mainly the same as the land to which the application mentioned in that subsection relates,
- (b) references to “ an offer ” are references to an offer in writing (or that is confirmed in writing),
- (c) a community body is, for the purposes of that subsection, similar to another community body if, in the opinion of Ministers, it is similar to the other body to a significant degree having regard to such matters as may be prescribed.

(8) In subsection (6), “ land ” means any land whether or not it is land in respect of which an application in relation to which this section applies is made.]

Textual Amendments

- F1** S. 39(1)-(1B) substituted for s. 39(1) (13.11.2015 for specified purposes, 15.4.2016 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 42(2)**, 142(1); [S.S.I. 2015/358](#), art. 2, Sch.; [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F2** S. 39(2)(aa) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 42(3)(a)**, 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F3** Words in s. 39(2)(b)(ii) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 42(3)(b)**, 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F4** S. 39(3)(a)-(ab) substituted for s. 39(3)(a) (13.11.2015 for specified purposes, 15.4.2016 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 42(4)**, 142(1); [S.S.I. 2015/358](#), art. 2, Sch.; [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F5** S. 39(3A)(3B) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 42(5)**, 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F6** Word in s. 39(4)(c) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 42(6)**, 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F7** S. 39(4A) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 42(7)**, 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F8** Words in s. 39(5) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 42(8)**, 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F9** S. 39(6)-(8) inserted (13.11.2015 for specified purposes, 15.4.2016 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 42(9)**, 142(1); [S.S.I. 2015/358](#), art. 2, Sch.; [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)

Changes to legislation:

There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Section 39.