



Land Reform (Scotland) Act 2016

2016 asp 18

PART 5

RIGHT TO BUY LAND TO FURTHER SUSTAINABLE DEVELOPMENT

Key terms

49 Part 5 community bodies

- (1) A Part 5 community body is, subject to subsection (7)—
- (a) where a body applies under section 54(1)(a) to exercise the right to buy itself, a body falling within subsection (2), (3) or (4),
 - (b) where a body nominates a third party purchaser to exercise the right to buy under section 54(1)(b), a body falling within subsection (5),
 - (c) a body of such other description as the Scottish Ministers may by regulations specify.
- (2) A body falls within this subsection if it is a company limited by guarantee the articles of association of which include the following—
- (a) a definition of the community to which the company relates,
 - (b) provision enabling the company to exercise the right to buy land under this Part,
 - (c) provision that the company must have not fewer than 10 members,
 - (d) provision that at least three quarters of the members of the company are members of the community,
 - (e) provision whereby the members of the company who consist of members of the community have control of the company,
 - (f) provision ensuring proper arrangements for the financial management of the company,
 - (g) provision that any surplus funds or assets of the company are to be applied for the benefit of the community, and
 - (h) provision that, on the winding up of the company and after satisfaction of its liabilities, its property (including any land acquired by it under this Part) passes—

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- (i) to such other community body as may be approved by the Scottish Ministers, or
 - (ii) if no other community body is so approved, to the Scottish Ministers or to such charity as the Scottish Ministers may direct.
- (3) A body falls within this subsection if it is a Scottish charitable incorporated organisation (a “SCIO”) the constitution of which includes the following—
- (a) a definition of the community to which the SCIO relates,
 - (b) provision enabling the SCIO to exercise the right to buy land under this Part,
 - (c) provision that the SCIO must have not fewer than 10 members,
 - (d) provision that at least three quarters of the members of the SCIO are members of the community,
 - (e) provision under which the members of the SCIO who consist of members of the community have control of the SCIO,
 - (f) provision ensuring proper arrangements for the financial management of the SCIO,
 - (g) provision that, on the request of any person for a copy of the minutes of a meeting of the SCIO, the SCIO must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
 - (h) provision that, where a request of the type mentioned in paragraph (g) is made, the SCIO—
 - (i) may withhold information contained in the minutes, and
 - (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and
 - (i) provision that any surplus funds or assets of the SCIO are to be applied for the benefit of the community.
- (4) A body falls within this subsection if it is a community benefit society the registered rules of which include the following—
- (a) a definition of the community to which the society relates,
 - (b) provision enabling the society to exercise the right to buy land under this Part,
 - (c) provision that the society must have not fewer than 10 members,
 - (d) provision that at least three quarters of the members of the society are members of the community,
 - (e) provision under which the members of the society who consist of members of the community have control of the society,
 - (f) provision ensuring proper arrangements for the financial management of the society,
 - (g) provision that, on the request of any person for a copy of the minutes of a meeting of the society, the society must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
 - (h) provision that, where a request of the type mentioned in paragraph (g) is made, the society—
 - (i) may withhold information contained in the minutes, and
 - (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and
 - (i) provision that any surplus funds or assets of the society are to be applied for the benefit of the community.

- (5) A body falls within this subsection if it is a body corporate having a written constitution that includes the following—
- (a) a definition of the community to which the body relates,
 - (b) provision that the majority of the members of the body are to be members of that community,
 - (c) provision that the members of the body who consist of members of that community have control of the body,
 - (d) provision that membership of the body is open to any member of that community,
 - (e) a statement of the body’s aims and purposes, including the promotion of a benefit for that community, and
 - (f) provision that any surplus funds are to be applied for the benefit of that community.
- (6) The Scottish Ministers may, if they think it in the public interest to do so, disapply the requirement specified in subsection (2)(c), (3)(c) or (4)(c) in relation to any body they may specify.
- (7) A body is not a Part 5 community body unless the Scottish Ministers have given it written confirmation that they are satisfied that the main purpose of the body is consistent with furthering the achievement of sustainable development.
- (8) The Scottish Ministers may by regulations modify subsections (2), (3), (4), (5) and (6).
- (9) A community—
- (a) is defined for the purposes of subsection (2), (3), (4) and (5) by reference to a postcode unit or postcode units or a type of area as the Scottish Ministers may by regulations specify (or both such unit and type of area), and
 - (b) comprises the persons from time to time—
 - (i) resident in that postcode unit or in one of those postcode units or in that specified type of area, and
 - (ii) entitled to vote, at a local government election, in a polling district which includes that postcode unit or those postcode units or that specified type of area (or part of it or them).
- (10) The articles of association of a company which is a Part 5 community body may, despite the generality of paragraph (h) of subsection (2), provide that its property may, in the circumstances mentioned in that paragraph, pass to another person only if that person is a charity.
- (11) In this section—
- “charity” means a body entered in the Scottish Charity Register,
 - “community benefit society” means a registered society (within the meaning of section 1 of the Co-operative and Community Benefit Societies Act 2014) registered as a community benefit society under section 2 of that Act,
 - “company limited by guarantee” has the meaning given by section 3(3) of the Companies Act 2006,
 - “postcode unit” means an area in relation to which a single postcode is used to facilitate the identification of postal service delivery points within the area,
 - “registered rules” has the meaning given by section 149 of the Co-operative and Community Benefit Societies Act 2014 (as that meaning applies in relation to community benefit societies),

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