

2009 No. 156

LAND REFORM

The Community Right to Buy (Prescribed Form of Application and Notices) (Scotland) Regulations 2009

<i>Made</i> - - - -	<i>23rd April 2009</i>
<i>Laid before the Scottish Parliament</i>	<i>24th April 2009</i>
<i>Coming into force</i> - -	<i>15th June 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 37, 48 and 49 of the Land Reform (Scotland) Act 2003(a), and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Right to Buy (Prescribed Form of Application and Notices) (Scotland) Regulations 2009 and come into force on 15th June 2009.

(2) In these Regulations—

“the Act” means the Land Reform (Scotland) Act 2003.

Application to register or to re-register an interest in land

2. An application by a community body under section 37(1) of the Act—

(a) to register an interest in land; or

(b) (as read with section 44(2) of the Act), to re-register an interest in land,

shall be submitted to Ministers in, or as near as may be in, the form of application specified in Schedule 1.

Notice where owner or creditor may be unknown

3. For the purposes of satisfying Ministers that an owner of land in which a community interest is sought to be registered or re-registered or, as the case may be, a creditor in a standard security over any part of that land, is unknown or cannot be found, the notice which the community body is required to affix to the land in terms of section 37(4) of the Act shall be in, or as near as may be in, the form of notice specified in Schedule 2.

(a) 2003 asp 2. Section 98(1) of the Act contains definitions of ‘Ministers’ and ‘prescribed’ relevant to the exercise of the statutory powers under which these Regulations are made.

Notice by Ministers on whether community interest is to be registered or re-registered

4. The notice specified in section 37(17) of the Act intimating the decision of Ministers whether or not a community interest is to be entered or re-entered in the Register of Community Interests in Land shall be in, or as near as may be in, the form of notice specified in Schedule 3.

Notice by owner or creditor of proposed transfer of land

5. Where an owner of land, or a creditor in a standard security, is required under section 48 of the Act to notify a community body and Ministers of a proposed transfer of land, the notification shall be in, or as near as may be in, the form of notice specified in Schedule 4.

Notices following receipt of a notice under section 48 of the Act

6. The notices required to be sent by Ministers under section 49(2)(a) (notice seeking confirmation of exercise of right to buy) and (2)(b) (notice narrating compliance) of the Act shall be in, or as near as may be in, the forms of notice specified in Schedules 5 and 6 respectively.

Revocation

7. The Community Right to Buy (Forms) (Scotland) Regulations 2004(a) are revoked.

R CUNNINGHAM

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
23rd April 2009

(a) S.S.I. 2004/233.

SCHEDULE 1

Regulation 2

Official use only	V 2
Received date	
Registration number	
Expiry of registration	

LAND REFORM (SCOTLAND) ACT 2003

APPLICATION FORM TO REGISTER OR TO RE-REGISTER A COMMUNITY INTEREST IN LAND

APPLICATION TO REGISTER/RE-REGISTER*

PLEASE USE BLACK INK AND CAPITAL LETTERS

PART A

1 Name of Community Body (CB)

Contact title

Contact forename

Contact surname

House name

House number

Street name

Post town

Postcode

Telephone number

Fax number

Email address (if available)

2 Company details

A Community Body must be a Company Limited by Guarantee, registered in Scotland. A copy of the **Memorandum** and **Articles of Association** of the Community Body should be enclosed, along with a copy of your **Certificate of Incorporation**.

Company registration number

Name of registered office

Address of Registered office

Postcode

3 Location of Community, as defined by the Community Body

No. of maps/drawings enclosed

Postcode unit(s) covering Community area

Name, location and boundaries of the community. (Complete on a separate sheet if necessary). Please also show the community in relation to the land to be registered/re-registered* on one map, if possible. Please ensure that maps are referenced accordingly.

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NOTE Any map or plan supplied must conform to the requirements in the Community Right to Buy (Specification of Plans) (Scotland) Regulations 2004 (S.S.I. 2004/231).

4 **Details of land in which interest is being registered/re-registered***

No. of maps/drawings enclosed

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County

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Postcode details

4 figure OS grid reference numbers (e.g. NT1234) covering land to be registered/re-registered*

Written description of land in which interest is to be registered/re-registered* detailing boundaries and indicating measurement, where required (complete on a separate sheet if necessary). Please ensure that maps are referenced accordingly.

NOTE Any map or plan supplied must conform to the requirements in the Community Right to Buy (Specification of Plans) (Scotland) Regulations 2004 (SSI 2004/231).

5 Details about the landowner

If the landowner is unknown, enter '**Unknown**' in 'Name' field below and see **Q10 of PART B** of this form.

Title

Name

Address

Postcode

6 We apply for registration/re-registration* of our interest in the land specified in this application under the Land Reform (Scotland) Act 2003. We certify that the information supplied in this application is correct to the best of our knowledge and belief.

Title of Chairperson

Name of Chairperson

Signature _____

Title of Secretary

Name of Secretary

Signature _____

Date

PART B

Delete **YES**, **NO** or **NOT APPLICABLE** as appropriate.

N.B. If more space is required for any question on this part of the form, please indicate at the bottom of each question that you have continued on additional pages. These additional pages should be attached to the end of this form and referenced accordingly.

Q1. As far as you are aware, has your application to register an interest in land been submitted timeously i.e. before any of the actions specified in section 40(1) (as read with section 40(5)) of the Act have been taken, such as advertising the land for sale or taking other steps to transfer the land for value? **YES/NO**

If NO, you should complete Q8.

NOTE An application to re-register an interest in land is timeous if submitted within 6 months before the expiry of the period referred to in section 44(2) of the Land Reform (Scotland) Act 2003. There is no provision in the Act to accept late applications for re-registration.

Q2. Please provide the names and addresses of the Chairperson and Secretary of the CB.

Chairperson's title

Chairperson's forename

Chairperson's surname

Address

Post town

Postcode

Secretary's title

Secretary's forename

Secretary's surname

Address

Post town

Postcode

Q3. Please state the names and addresses of all members of the CB and those who are members of the community as defined under section 34(5) of the Act.
You should identify the different types of member where appropriate.

Q4. Do you have at least 10% support from the community? **YES/NO**

If YES, please provide details, including supporting evidence, of the number of eligible voters in your community.

If NO, please indicate what percentage of support you consider that you have. Also please provide reasons why the support is less than 10% and why you think the application should be approved.

Q5. Does your application include salmon fishings which are owned separately from the land?

YES/NO

If YES, please provide details.

Q6. Does your application include mineral rights? **YES/NO**
If YES, please provide details of rights and any separate ownership involved.

Q7. (a) Do a significant number of members of the community have a substantial connection with the land to be registered/re-registered*? **YES/NO**

Please explain your answer.

If you answered NO to Q7(a), please answer Q7(b)(i) and (ii).

(b)(i) Is the land to be registered/registered* sufficiently near to land with which members of that community have a substantial connection? **YES/NO**

(ii) Is the acquisition of the land by the community body compatible with furthering the achievement of sustainable development? **YES/NO**

Please explain your answers. Please answer (b)(i) and (ii) separately.

(i)

(ii)

Q8. If you have answered 'NO' to **Q1 of PART B** to this form, please provide reasons why your application is not timeous and why the 'Late Application' procedure in section 39 of the Act should apply. Please also provide the additional information required therein. ***NOTE There is no provision in the Act to accept late applications for re-registration.***

Q9. Please provide details of the checks made, and by whom, to establish the ownership details provided in Section 5 of **PART A** to this form, and heritable creditor details in **Q11** below.

Q10. If, at Section 5 of **PART A** to this form, you have entered 'Unknown', please provide details of investigation undertaken to identify the owner (see requirements in section 37(4) of the Act).

Q11. Please list the names and addresses of all persons who are known to you to have legally enforceable rights and interest in the subjects of the application, including all persons with leases, other legally enforceable rights or interests and any heritable creditors in all or part of the land. Please provide details of any such rights.

Q12. Is the land, or any part thereof, in which you are applying to register/re register* an interest:

- | | |
|--|---------------|
| a. land which has planning permission? | YES/NO |
| b. land which has an outstanding planning application relating to it? | YES/NO |
| c. land which is included for development in the Local Authority Local Development Plan? | YES/NO |

If YES to any of these questions, please provide details.

Q13. Is any part of the land in your application known to be the subject of a compulsory purchase order? **YES/NO**

If YES, please provide details.

Q14. Please explain how the proposals of the community body are compatible with furthering the achievement of the sustainable development of (a) the land, and (b) any salmon fishings and mineral rights included in this application.

Q15. Please explain how your development proposals–

- (a) are compatible with furthering the achievement of sustainable development of the community to which this application relates; and
- (b) how these proposals will offer increasing environmental, social and economic advantage to that community.

Q16. Is the amount of land being acquired sufficient to:

(a) further the achievement of the sustainable development of the community?

YES/NO

(b) support any salmon fishings and mineral rights included?

YES/NO/NOT APPLICABLE

If YES, please supply details of how that support is to be achieved.

If NO, please indicate why this interest should be registered/re-registered*.

Q17. Please provide an assessment of any expected impact on any neighbouring communities and on the wider community and, if appropriate, any expected impact on the remainder of the estate to which the land in this application relates.

Q18. Please explain why you consider that granting your application would be in the public interest.

*please delete as appropriate

Completed applications should be returned to:

Community Assets Branch
Area 1-D
Rural Directorate
Pentland House
47 Robb's Loan
Edinburgh
EH14 1TY

SCHEDULE 2

Regulation 3

Notice to be affixed to land under section 37(4) of the Land Reform
(Scotland) Act 2003

This notice is intimation that the [*insert name of community body*] is applying to the Scottish Ministers under section 37(1) of the Land Reform (Scotland) Act 2003 to [*register/re-register-please delete as appropriate*] an interest in [*describe area and location of land*] which is shown on the plan annexed. If you are the owner of the land, or a heritable creditor in possession of it, you should immediately contact [*insert details of contact for community body*] or Community Assets Branch, Area 1-D, Rural Directorate, Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TY (Tel: 0131 244 6003).

Date:

Signed (Official of Community Body)

SCHEDULE 3

Regulation 4

Notice by the Scottish Ministers under section 37(17) of the Land Reform (Scotland) Act 2003

The Scottish Ministers have considered the application by [*name of community body*] to [*register/re-register – please delete as appropriate*] an interest in [*insert details of land*] and have decided that the interest [*should/should not – please delete as appropriate*] be entered in the Register of Community Interests in Land for the following reasons:–

NOTES

Where a community interest in land is registered or where that interest has been re-registered, the owner of the land and any creditor in a standard security having right to sell the land, is prohibited from transferring the land, or any part of it, or from taking any action with a view to transferring it. The exemptions to these prohibitions are contained in section 40(4) of the Act.

A community body or an owner of land may, by virtue of section 61(1) or (2) of the Act, appeal by summary application to the sheriff against a decision by Scottish Ministers to refuse to register/re-register or register/re-register an interest in land.

A person who is a member of the community, as defined in section 34(5) of the Act, or who has an interest in the land giving rise to a right which is legally enforceable by that person may, by virtue of section 61(3) of the Act, appeal by summary application to the sheriff against a decision to register/re-register an interest in land.

SCHEDULE 4

Regulation 5

Notice by an owner or creditor to a community body and the Scottish Ministers under section 48(1) of the Land Reform (Scotland) Act 2003

I/We , owner(s)* of [*here specify land in respect of which a community interest has been registered, or any land of which that land forms part*] hereby give(s) notice in terms of section 48(1) of the Land Reform (Scotland) Act 2003 to [*specify community body or bodies with registered interest*] and to the Scottish Ministers that I/we propose to transfer the above mentioned land.

Date:

(Signed by owner)*

* If appropriate insert details of a creditor in a Standard Security with a right to sell the land.

SCHEDULE 5

Regulation 6

Notice by the Scottish Ministers to a community body under section 49(2)(a) of the Land Reform (Scotland) Act 2003

To *[specify community body]*

Take notice that the Scottish Ministers have been informed that the owner of the land at *[here specify land]* in which you have a registered interest is proposing to transfer that land. In terms of section 49 of the Land Reform (Scotland) Act 2003 you have until * *[here insert date in terms of section 49(4) of the Act]* to confirm in writing that you intend to exercise the right to buy the said land. If the Scottish Ministers have not received confirmation by the due date of the intention to proceed, in terms of section 49(4) of that Act the Scottish Ministers will be deemed to have received written notice from you under section 54(1) of the Act that you will not exercise the right to buy the said land. When the Scottish Ministers give notice of the declinature of the right to buy to the Keeper of Registers and the owner of the land your right to buy will be extinguished.**

*Confirmation must be with the Scottish Ministers by this date.

**A community body can register a community interest in the same land for a second or subsequent time.

SCHEDULE 6

Regulation 6

Notice by the Scottish Ministers to an owner of land under section 49(2)(b) of the Land Reform (Scotland) Act 2003

To *[specify owner of land]*

Take notice that the Scottish Ministers have, in compliance with section 49(2)(a) of the Land Reform (Scotland) Act 2003, requested from the *[here insert name of community body]* confirmation that it intends to exercise its right to buy the land at *[here specify land]* of which you are the owner.* The *[name of community body]* have until *[insert date]* to supply this confirmation.**

*If appropriate insert details of a creditor in a standard security with a right to sell the land.

**If this confirmation is not received by the due date, in terms of section 49(4) of the Act, the Scottish Ministers will be deemed to have received written notice from the community body under section 54(1) of the Act, and the right to buy shall be extinguished.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the form of application and notices which must be used in connection with various procedures under Part 2 (Community Right to Buy) of the Land Reform (Scotland) Act 2003 (“the Act”). In particular, the Regulations prescribe in Schedule 1, the new form of application to be completed by a community body where it wishes to re-register an interest in land.

Regulation 2 specifies that an application by a community body to register or re-register an interest in land under section 37(1) of the Act should be in or as near as may be in the form of application specified in Schedule 1.

Regulation 3 prescribes the form of notice which must be used by a community body where the owner of land in which a community interest is sought to be registered or re-registered, or a creditor in a standard security over any part of that land, may be unknown or cannot be found. The notice must be affixed to a part of the land and its prescribed form is specified in Schedule 2.

Regulation 4 and Schedule 3 specify the form of notice which must be used by the Scottish Ministers when they are intimating their decision on whether or not a community interest is to be entered or re-entered in the Register of Community Interests in Land.

Regulation 5 and Schedule 4 prescribe the form of notice which must be given to a community body and the Scottish Ministers by the owner of land, or a creditor in a standard security over that land, under section 48 of the Act where a transfer of the land is proposed.

Regulation 6 prescribes the form of notices to be given by the Scottish Ministers to a community body and to the owner of the land following receipt of a notice under section 48 of the Act. The form of these notices is specified in Schedules 5 and 6 respectively.

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