

LAND REFORM (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 2 the Community Right to Buy

Sections 40 and 41: Effect of Registration

160. [Section 40](#) prohibits an owner or, as the case may be, any creditor in a standard security with a right to sell the land, from transferring land which is subject to a registered interest (or any land which forms part of such land) other than in accordance with Part 2. Owners and heritable creditors are similarly prohibited from taking any action with a view to transferring such land.
161. Subsection (2) makes clear that a transfer in breach of the prohibition in terms of section 40(1) shall not constitute a legal transfer of title to the land.
162. Subsection (3) provides that a prohibition under subsection (1) prevents the transfer, and actions to transfer, land in which there is no registered interest if the transfer, or such action, also relates to registered land.
163. Subsection (4) lists types of transfer which are not prohibited by this section. Such a transfer would not activate a right to buy under Part 2.
164. Subsection (5) narrates what constitutes action taken with a view to a transfer of land.
165. Subsection (6) amends section 25 of the [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c.35\)](#) to provide that the right of a creditor in a standard security to sell land in respect of which an interest is registered (or an application for such an interest has been made) is subject to a prohibition on transfer imposed by sections 37(5)(e) or 40(1) of the Act.