



# Land Reform (Scotland) Act 2003

## 2003 asp 2

### PART 2

#### THE COMMUNITY RIGHT TO BUY

#### CHAPTER 1

##### GENERAL EXTENT OF COMMUNITY RIGHT TO BUY

### 33 Registrable land

- (1) The land in which a community interest may be registered under this Part of this Act (“registrable land”) is any land other than excluded land.
- (2) In subsection (1) above, “excluded land” means land described as such in an order made by Ministers.
- (3) In determining what land is to be so described, Ministers—
  - (a) may have regard to factors relating to population and to such other factors associated with or characteristic of the land as they think fit; and
  - (b) shall secure that registrable land is land appearing to them to be rural.
- (4) The description of excluded land in an order under this section shall consist of or include—
  - (a) a map showing the boundaries of that land; or
  - (b) a reference to such a map.
- (5) Where that description consists of or includes a reference to a map which does not form part of the order, Ministers shall make copies of the map available for public inspection at such times and places as they think fit.
- (6) Registrable land includes land consisting of—
  - (a) salmon fishings; or
  - (b) mineral rights,

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which are owned separately from the land in respect of which they are exigible; but does not include any such fishings or rights which are exigible in respect of excluded land.

- (7) In subsection (6) above, “mineral rights” does not include rights to oil, coal, gas, gold or silver.

### **34 Community bodies**

- (1) A community body is, subject to subsection (4) below, a company limited by guarantee the memorandum and 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 of this Act;
  - (c) provision that the company must have not fewer than 20 members;
  - (d) provision that the majority of the members of the company is to consist of 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 and the auditing of its accounts;
  - (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 of this Act) passes—
    - (i) to such other community body or crofting community body as may be approved by Ministers; or
    - (ii) if no other community body or crofting community body is so approved, to Ministers or to such charity as Ministers may direct.
- (2) Ministers may, if they think it in the public interest to do so, disapply the requirement specified in subsection (1)(c) above in relation to any body they may specify.
- (3) In subsection (1) above, “company limited by guarantee” has the same meaning as in section 1(2)(b) of the Companies Act 1985 (c. 6).
- (4) A body is not a community body unless 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.
- (5) Unless Ministers otherwise direct, a community—
- (a) shall be defined for the purposes of subsection (1)(a) above by reference to a postcode unit or postcode units; and
  - (b) shall comprise the persons from time to time—
    - (i) resident in that postcode unit or in one of those postcode units; and
    - (ii) entitled to vote, at a local government election, in a polling district which includes that postcode unit or those postcode units (or part of it or them).

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- (6) In subsection (5) above, “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.
- (7) The memorandum and articles of a company which is a community body may, notwithstanding the generality of paragraph (h) of subsection (1) above, provide that its property may, in the circumstances mentioned in that paragraph, pass to another person only if that person is a charity.
- (8) In this section, “charity” means a body [<sup>F1</sup>entered in the Scottish Charity Register].

#### Textual Amendments

- F1** Words in s. 34(8) substituted (1.4.2006) by [Charities and Trustee Investment \(Scotland\) Act 2005 \(asp 10\)](#) ss. 104, 107(2), {Sch. 4 para. 13(a)}; [S.S.I. 2006/189](#), [art. 2](#), Sch.

### 35 Provisions supplementary to section 34

- (1) A community body which has registered a community interest in or bought land under this Part of this Act shall not, for as long as—
  - (a) the interest remains registered; or, as the case may be,
  - (b) the land remains in its ownership,modify its memorandum or articles of association without Ministers' consent in writing.
- (2) If Ministers are satisfied that a body which has registered a community interest is no longer a community body, they may direct the Keeper to delete that interest from the Register.
- (3) If Ministers are satisfied that a body which has, under this Part of this Act, bought land would, had it not so bought that land, no longer be entitled to do so, they may acquire the land compulsorily.

### 36 Register of Community Interests in Land

- (1) The Keeper shall set up and keep a register, to be known as the Register of Community Interests in Land (the “Register”).
- (2) The Register shall be set up and kept so as to contain, in a manner and form convenient for public inspection, the following information and documents relating to each community interest registered in it—
  - (a) the name and address of the registered office of the company which constitutes the community body which has registered the interest;
  - (b) a copy of the application for registration under section 37 below;
  - (c) a copy of the notice of prohibition under section 37(5)(e) below;
  - (d) a copy of the notice sent under section 37(17) below of Ministers' decision that the interest is to be entered in the Register;
  - (e) the date of registration;
  - (f) a description of the land, including maps, plans or other drawings (prepared to such specifications as are prescribed);

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- (g) the date when the registration will, under section 44 below, cease to have effect;
  - (h) the date of any deletion of the interest under section 45 or 54 below;
  - (i) a copy of any notification under section 48 below;
  - (j) a copy of any notice sent under section 49 below;
  - (k) a copy of any confirmation received in pursuance of that section;
  - (l) a copy of any notice sent under section 50(3) below;
  - (m) a copy of any decision as to consent given under section 51 below;
  - (n) a copy of any notice given under section 54 below;
  - (o) in the case of each copy document referred to in this subsection, the date of the original;
  - (p) such other information as Ministers consider appropriate.
- (3) If, however, the community body registering an interest requires that any such information or document relating to that interest and within subsection (4) below as is specified in the requirement be withheld from public inspection, that information or document shall be kept by or on behalf of Ministers separately from and not entered in the Register.
- (4) Information or a document is within this subsection if it relates to arrangements for the raising or expenditure of money to enable the land in which the interest is registered to be put to a particular use.
- (5) Nothing in subsection (3) or (4) above obliges an applicant community body, or empowers Ministers to require such a body, to submit to Ministers any information or document within subsection (4) above.
- (6) Ministers may by order modify paragraphs (a) to (o) of subsection (2) or subsections (3) or (4) above.
- (7) The Keeper shall ensure—
- (a) that the Register is, at all reasonable times, available for public inspection free of charge;
  - (b) that members of the public are given facilities for getting copies of entries in the Register on payment of such charges as may be prescribed; and
  - (c) that any person requesting it is, on payment of such a charge, supplied with an extract entry certified to be a true copy of the original.
- (8) An extract so certified is sufficient evidence of the original.
- (9) In this Part of this Act “the Keeper” means—
- (a) the Keeper of the Registers of Scotland; or
  - (b) such other person as Ministers may appoint to carry out the Keeper’s functions under this Part of the Act.
- (10) Different persons may be so appointed for different purposes.

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