



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 [F¹Land in respect of which community interest may be registered]

- (1) ^{F2}... A community interest may be registered under this Part of this Act [^{F3}in] any land other than excluded land.
- (2) In subsection (1) above, “excluded land” means land [^{F4}consisting of a separate tenement which is owned separately from the land in respect of which it is exigible (subject to subsection (2A))].

[^{F5}(2A) Land consisting of—

- (a) salmon fishings, or
- (b) mineral rights (other than rights to oil, coal, gas, gold or silver),

which are owned separately from the land in respect of which they are exigible is not “excluded land” (and so is land in which a community interest may be registered under this Part).]

^{F6}(3)

^{F6}(4)

^{F6}(5)

^{F6}(6)

^{F6}(7)

Status: Point in time view as at 15/04/2016.

Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Chapter 1. (See end of Document for details)

Textual Amendments

- F1** S. 33 title substituted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 36(2)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F2** Words in s. 33(1) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 36(1)(a)(i)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F3** Word in s. 33(1) substituted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 36(1)(a)(ii)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F4** Words in s. 33(2) substituted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 36(1)(b)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F5** S. 33(2A) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 36(1)(c)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F6** S. 33(3)-(7) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 36(1)(d)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)

34 Community bodies

[^{F7}(A1) A community body is, subject to subsection (4)—

- (a) a body falling within subsection (1), (1A) or (1B), or
- (b) a body of such other description as may be prescribed which complies with prescribed requirements.]

(1) A [^{F8}body falls within this subsection if it is], a company limited by guarantee the [^{F9}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 [^{F10}10] members;
- [^{F11}(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 ^{F12}...;
- [^{F13}(fa) provision that, on the request of any person for a copy of the minutes of a meeting of the company, the company must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
- (fb) provision that, where a request of the type mentioned in paragraph (fa) is made, the company—
 - (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,]
- (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—

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- (i) to such other community body [^{F14}, crofting community body or Part 3A community body (as defined in section 97D)] as may be approved by Ministers; or
- (ii) if no other community body [^{F15}, crofting community body or Part 3A community body (as so defined)] is so approved, to Ministers or to such charity as Ministers may direct.

[^{F16}(1A) 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.

(1B) 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

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- (i) provision that any surplus funds or assets of the society are to be applied for the benefit of the community.]
- (2) Ministers may, if they think it in the public interest to do so, disapply the requirement specified in subsection (1)(c)^[F17], (1A)(c) or (1B)(c)] above in relation to any body they may specify.
- (3) In subsection (1) above, “company limited by guarantee” has ^[F18]the meaning given by section 3(3) of the Companies Act 2006].
- (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.
- ^[F19](4A) Ministers may by regulations from time to time amend subsections (1), (1A) and (1B).
- (4B) If provision is made under subsection (A1)(b), Ministers may by regulations make such amendment of section 35(A1) and (1) in consequence of that provision as they consider necessary or expedient.]
- (5) ^{F20}... A community—
 - (a) shall be defined for the purposes of ^[F21]subsections (1)(a), (1A)(a) and (1B)(a)] above by reference to a postcode unit or postcode units ^[F22]or a prescribed type of area (or both such unit and type of area)]; and
 - (b) shall comprise the persons from time to time—
 - (i) resident in that postcode unit or in one of those postcode units ^[F23]or in that prescribed 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 ^[F24]or that prescribed type of area] (or part of it or them).
- (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 ^[F25]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^[F26]—
 - “charity” means a body ^[F27]entered in the Scottish Charity Register]
 - ^[F28]“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,
 - “registered rules” has the meaning given by section 149 of that Act (as that meaning applies in relation to community benefit societies),
 - “Scottish charitable incorporated organisation” has the meaning given by section 49 of the Charities and Trustee Investment (Scotland) Act 2005].

Textual Amendments

- F7** S. 34(A1) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), ss. 37(2), 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)

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Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Chapter 1. (See end of Document for details)

- F8** Words in s. 34(1) substituted (15.4.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 37(3)(a)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F9** Words in s. 34(1) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 218(2)(a)** (with art. 10)
- F10** Word in s. 34(1)(c) substituted (15.4.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 37(3)(b)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F11** S. 34(1)(d) substituted (15.4.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 37(3)(c)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F12** Words in s. 34(1)(f) repealed (15.4.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 37(3)(d)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F13** S. 34(1)(fa)(fb) inserted (15.4.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 37(3)(e)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F14** Words in s. 34(1)(h)(i) substituted (15.4.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 37(3)(f)(i)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F15** Words in s. 34(1)(h)(ii) substituted (15.4.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 37(3)(f)(ii)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F16** S. 34(1A)(1B) 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. 37(4)**, 142(1); S.S.I. 2015/358, art. 2, Sch.; S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F17** Words in s. 34(2) inserted (15.4.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 37(5)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F18** Words in s. 34(3) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 218(2)(b)** (with art. 10)
- F19** S. 34(4A)(4B) inserted (15.4.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 37(6)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F20** Words in s. 34(5) repealed (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. 37(7)(a)**, 142(1); S.S.I. 2015/358, art. 2, Sch.; S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F21** Words in s. 34(5)(a) substituted (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. 37(7)(b)(i)**, 142(1); S.S.I. 2015/358, art. 2, Sch.; S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F22** Words in s. 34(5)(a) 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. 37(7)(b)(ii)**, 142(1); S.S.I. 2015/358, art. 2, Sch.; S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F23** Words in s. 34(5)(b)(i) 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. 37(7)(c)**, 142(1); S.S.I. 2015/358, art. 2, Sch.; S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F24** Words in s. 34(5)(b)(ii) 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. 37(7)(d)**, 142(1); S.S.I. 2015/358, art. 2, Sch.; S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F25** Words in s. 34(7) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 218(2)(c)** (with art. 10)
- F26** S. 34(8) hyphen 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. 37(8)(a)**, 142(1); S.S.I. 2015/358, art. 2, Sch.; S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F27** 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.

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F28 Words in s. 34(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. 37(8)(b)**, 142(1); [S.S.I. 2015/358](#), art. 2, Sch.; [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)

35 Provisions supplementary to section 34

[^{F29}(A1) During the relevant period, a community body may not modify its memorandum, articles of association, constitution or registered rules (as defined in section 34(8)) without Ministers' consent in writing.

(A2) In subsection (A1), “relevant period” means the period—

- (a) beginning on the day on which the community body submits an application under section 37(1) for registration of a community interest in land, and
- (b) ending with—
 - (i) registration of the community interest in land,
 - (ii) a decision by Ministers that the community interest in land should not be registered,
 - (iii) Ministers declining, by virtue of section 39(5), to consider the application, or
 - (iv) withdrawal of the application.]

(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 [^{F30}, articles of association, constitution or registered rules (as defined in section 34(8))] 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.

[^{F31}(4) Where the power conferred by subsection (3) is (or is to be) exercised in relation to land, Ministers may make an order relating to, or to matters connected with, the acquisition of the land.

(5) An order under subsection (4) may—

- (a) apply, modify or exclude any enactment which relates to any matter as to which an order could be made under that subsection,
- (b) make such modifications of enactments as appear to Ministers to be necessary or expedient in consequence of any provision of the order or otherwise in connection with the order.]

Textual Amendments

F29 [S. 35\(A1\)\(A2\)](#) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 38(2)**, 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)

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Changes to legislation: There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Chapter 1. (See end of Document for details)

- F30** Words in s. 35(1) substituted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 38\(3\), 142\(1\); S.S.I. 2015/399, art. 2, Sch. \(with art. 3\)](#)
- F31** S. 35(4)(5) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 38\(4\), 142\(1\); S.S.I. 2015/399, art. 2, Sch. \(with art. 3\)](#)

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) ^[F32]where the community body which has registered the interest is constituted by a company limited by guarantee, the name and address of the registered office of the company ^{F33}...;
 - ^[F34](aa) where the community body which has registered the interest is constituted by a Scottish charitable incorporated organisation within the meaning given in section 34(8) (a “ SCIO ”), the name and address of the principal office of the SCIO ,
 - (ab) where the community body which has registered the interest is constituted by a community benefit society as defined in section 34(8), the name and address of the registered office of the society,]
 - (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);
 - (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.

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(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.

[^{F35}(5A) Subsection (5B) applies where—

- (a) a community body changes its name,
- (b) a community body which is constituted by a company limited by guarantee or by a community benefit society changes the address of its registered office, or
- (c) a community body which is constituted by a SCIO changes the address of its principal office.

(5B) The community body must, as soon as reasonably practicable after the change is made, notify the Keeper of the change.]

(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.

Textual Amendments

- F32** Words in s. 36(2)(a) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 39\(2\)\(a\)\(i\)](#), 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F33** Words in s. 36(2)(a) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 39\(2\)\(a\)\(ii\)](#), 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F34** S. 36(2)(aa)(ab) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 39\(2\)\(b\)](#), 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)
- F35** S. 36(5A)(5B) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), [ss. 39\(3\)](#), 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Chapter 1.