



Land Reform (Scotland) Act 2003

2003 asp 2

PART 2

THE COMMUNITY RIGHT TO BUY

CHAPTER 3

ACTIVATION OF RIGHT TO BUY

47 Activation of right to buy

- (1) The right to buy land in which a community interest has been registered arises and may be exercised when the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land gives, or is deemed to have given, notice under section 48(1) below that a transfer is proposed.
- (2) That right, however, is exercisable only in relation to particular holdings of land; accordingly, references in this and the following sections of this Part of this Act to land as respects which the right to buy is being exercised, is sought to be exercised or has been exercised are references to such holdings.
- (3) Subsection (1) above shall not operate so as to provide a community body with a right to buy any land in respect of which it has not registered an interest in accordance with this Part of this Act.
- (4) In subsection (2) above, “holding” has the same meaning as in subsections (14) and (15) of section 37 above.

48 Duties on owner, or creditor, proposing to transfer land

- (1) Where the owner of land in respect of which a community interest is registered or, as the case may be, a creditor in a standard security with a right to sell such land proposes to transfer that land (or any land of which that land forms part) by way of a transfer under this Part of this Act, the owner or, as the case may be, such a creditor shall notify that fact to—

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- (a) the community body, or bodies, in respect of which the interest is registered; and
 - (b) Ministers.
- (2) Notification under subsection (1) above shall be given in such form and otherwise in accordance with such provisions as are prescribed.
- (3) Subsection (1) above operates so as to require notification of a proposal to transfer land in respect of which no community interest has been registered only where that proposed transfer also relates to land in respect of which a community interest has been registered.
- (4) Where notification under subsection (1) above is given by a creditor in a standard security with a right to sell the land, references in the following sections of this Part of this Act to the owner of the land shall, for the purposes of determining the procedure which is to apply in respect of the sale of the land by that creditor, be deemed to be references to that creditor.

49 Procedure following receipt of notice under section 48

- (1) On receipt of notification under section 48 above from an owner of land, Ministers shall direct the Keeper to enter particulars of the notification in the Register.
- (2) Not later than 7 days after such receipt Ministers shall—
- (a) send to the community body which has registered the interest in the land a notice in the prescribed form seeking its confirmation in writing that it will exercise its right to buy the land; and
 - (b) send to the owner of the land a notice in the prescribed form narrating their compliance with paragraph (a) above.
- (3) A notice under subsection (2)(a) above shall specify the date referred to in and narrate the effect of subsection (4) below.
- (4) If, by the date specified in the notice, being a date not later than 30 days after it was sent, the community body has not caused its confirmation to be received by Ministers, Ministers shall be deemed to have received written notice from the community body under subsection (1) of section 54 below that it will not exercise its right to buy the land and subsections (2) to (4) of that section shall apply accordingly.
- (5) Ministers shall send a copy of—
- (a) the notice sent under subsection (2)(a) above; and
 - (b) any confirmation received by them in pursuance of this section, to the owner of the land and to the Keeper.
- (6) Any failure to comply with the time limit specified in subsection (2) above does not affect the validity of anything done under this section.

50 Power to activate right to buy land where breach of this Part

- (1) If, on an application made to it by a community body which has registered an interest in land, the Lands Tribunal determine that—
- (a) the owner of that land, or a creditor in a standard security with a right to sell that land, has acted in breach of a prohibition under—
 - (i) subsection (5)(e) of section 37 above; or

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- (ii) section 40(1) above; and
 - (b) each of the conditions set out in subsection (2) below is met, the Tribunal shall notify Ministers of that fact.
- (2) Those conditions are—
 - (a) that the action referred to in subsection (1)(a) above occurred during the period of ten years immediately prior to the date on which the application was made;
 - (b) that the land has, during such period, not ceased to be registrable land;
 - (c) that the community interest in the land which had been registered, or applied for, before the action referred to in subsection (1)(a) above remains in effect or another has, since then, been registered; and
 - (d) that Ministers have not, on or after the date on which the action referred to in subsection (1)(a) above occurred, received, or been deemed to have received, written notice under subsection (1) of section 54 below from the community body which had, on that date, registered, or applied to register, an interest in the land.
- (3) On receipt of notice under subsection (1) above Ministers shall—
 - (a) give notice of the Tribunal’s determination to each community body which—
 - (i) had registered, or had applied to register, an interest in the land on the date on which the action referred to in subsection (1)(a) above occurred; and
 - (ii) has such an interest on the date on which the notice is served; and
 - (b) send a copy of the notice to the owner of the land and to the Keeper.
- (4) A notice under subsection (3) above shall narrate the effect of subsection (5) below.
- (5) Where notice is given by Ministers under subsection (3) above the owner of the land is, for the purposes of this Part of this Act, deemed to have, on the date on which notice was given by Ministers, given notice under section 48(1) above that a transfer of the land is proposed.