



# Land Reform (Scotland) Act 2003

## 2003 asp 2

### PART 2

#### THE COMMUNITY RIGHT TO BUY

#### CHAPTER 1

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

### 34 Community bodies

[<sup>F1</sup>(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 [<sup>F2</sup>body falls within this subsection if it is], a company limited by guarantee the [<sup>F3</sup>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 [<sup>F4</sup>10] members;
- [<sup>F5</sup>(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 <sup>F6</sup>...;
- [<sup>F7</sup>(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

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- (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—
    - (i) to such other community body [<sup>F8</sup>, 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 [<sup>F9</sup>, crofting community body or Part 3A community body (as so defined)] is so approved, to Ministers or to such charity as Ministers may direct.
- [<sup>F10</sup>(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,

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- (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
  - (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)[<sup>F11</sup>, (1A)(c) or (1B)(c)] above in relation to any body they may specify.
- (3) In subsection (1) above, “company limited by guarantee” has [<sup>F12</sup>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.
- [<sup>F13</sup>(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) <sup>F14</sup>... A community—
- (a) shall be defined for the purposes of [<sup>F15</sup>subsections (1)(a), (1A)(a) and (1B)(a)] above by reference to a postcode unit or postcode units [<sup>F16</sup>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 [<sup>F17</sup>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 [<sup>F18</sup>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 [<sup>F19</sup>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[<sup>F20</sup>—]  
“charity” means a body [<sup>F21</sup>entered in the Scottish Charity Register]  
[<sup>F22</sup> “ 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].

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### Textual Amendments

- F1** 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)
- F2** 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)
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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)
- F16** 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)
- F17** 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)
- F18** 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)
- F19** 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)
- F20** 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)

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- F21** 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.
- F22** 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)

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