



Land Reform (Scotland) Act 2003

2003 asp 2

[^{F1}PART 3A

COMMUNITY RIGHT TO BUY ABANDONED, NEGLECTED OR DETRIMENTAL LAND

[^{F1}97H Criteria for consent

- (1) Ministers must not consent to an application made under section 97G unless they are satisfied—
- (a) that the land to which the application relates is eligible land,
 - (b) that the exercise by the Part 3A community body of the right to buy under this Part is—
 - (i) in the public interest, and
 - (ii) compatible with furthering the achievement of sustainable development in relation to the land,
 - (c) that the achievement of sustainable development in relation to the land would be unlikely to be furthered by the owner of the land continuing to be its owner,
 - (d) that the owner of the land is accurately identified in the application,
 - (e) that any creditor in a standard security over the land or any part of it with a right to sell the land or any part of it is accurately identified in the application,
 - (f) that the owner is not—
 - (i) prevented from selling the land, or
 - (ii) subject to any enforceable personal obligation (other than an obligation arising by virtue of any right suspended by regulations under section 97N(3)) to sell the land otherwise than to the Part 3A community body,
 - (g) that the Part 3A community body complies with the provisions of section 97D,
 - (h) that—
 - (i) a significant number of the members of the community to which the application relates have a connection with the land,
 - (ii) the land is sufficiently near to land with which those members of the community have a connection,
 - (iii) where the Part 3A community body is a body mentioned in section 97D(1)(a), the land is in or sufficiently near to the area of

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- the community by reference to which the community is defined as mentioned in section 97D(9)(a), or
- (iv) where the Part 3A community body is a body mentioned in section 97D(1)(b), the land is in or sufficiently near to the area of the community to which the body relates,
- (i) that the community have approved the proposal to exercise the right to buy, and
- (j) that, otherwise than by virtue of this Part, the Part 3A community body has tried and failed to buy the land.
- (2) Subsection (1) is subject to subsections (3) to (7).
- (3) Subsections (4) to (7) apply in relation to an application made under section 97G that relates to land the use or management of which is such that it results in or causes harm to the environmental wellbeing of a relevant community (as defined in section 97C(3)).
- (4) In deciding whether to consent to the application, Ministers are not required to be satisfied as to the matter mentioned in subsection (1)(c) in relation to the land.
- (5) Ministers must not consent to the application unless they are satisfied (in addition to the matters specified in subsection (1) as read with subsection (4))—
- (a) that the exercise by the Part 3A community body of the right to buy under this Part is compatible with removing, or substantially removing, the harm to the environmental wellbeing of the relevant community,
- (b) that the Part 3A community body has, before the application is submitted, made a request to—
- (i) a relevant regulator (if any), or
- (ii) where there is more than one relevant regulator, to all such regulators, to take action in relation to the land in exercise of its (or their) relevant regulatory functions that could, or might reasonably be expected to, remedy or mitigate the harm, and
- (c) (regardless of whether or not a relevant regulator is taking, or has taken, action in exercise of its relevant regulatory functions in relation to the land) that the harm is unlikely to be removed, or substantially removed, by the owner of the land continuing to be its owner.
- (6) For the purposes of subsection (5)—
- (a) “regulator” means—
- (i) such person, body or office-holder as may be prescribed, or
- (ii) a person, body or office-holder of such description as may be prescribed,
- (b) a regulator is “relevant” if, in the opinion of Ministers, the regulator is relevant having regard to the harm to the environmental wellbeing of the relevant community,
- (c) action taken by a relevant regulator in exercise of its relevant functions includes action to secure compliance with or enforce a regulatory requirement,
- (d) “regulatory functions” has the meaning given by section 1(5) (as read with section 1(6)) of the Regulatory Reform (Scotland) Act 2014, but as if the words “but does not include any such functions exercisable by a planning authority” in section 1(5) were omitted,

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- (e) a regulatory function is “relevant” if, in the opinion of Ministers, the function is relevant having regard to the harm to the environmental wellbeing of the relevant community.
- (7) In subsection (6)(c), “regulatory requirement” has the meaning given by section 1(5) of the Regulatory Reform (Scotland) Act 2014, but as if the references to “regulator” and “regulatory functions” in paragraph (b) of that definition were references respectively to “regulator” and “regulatory functions” within the meaning given by subsection (6) of this section.
- (8) References in subsection (1) to the community are, in relation to a Part 3A community body, references to—
 - (a) where the body is a body mentioned in section 97D(1)(a), the community defined in relation to the body under section 97D(2)(a), (3)(a) or (4)(a), or
 - (b) where the body is a body mentioned in section 97D(1)(b), the community to which the body relates.]

Textual Amendments

- F1** Pt. 3A inserted (30.6.2017 for specified purposes, 27.6.2018 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 74, 142(1)**; [S.S.I. 2017/192](#), art. 2; [S.S.I. 2018/139](#), art. 2(a)

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