

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Community rights to buy land

Modifications of Part 2 of Land Reform (Scotland) Act 2003 : the community right to buy

Criteria for registration of interest in land

77. [Section 41](#) of the Act amends section 38 of the 2003 Act which sets out the criteria which must be met before an application to register a community interest in land is approved by Ministers. Subsection (1)(d) of section 38 of the 2003 Act provides that there must be sufficient community support to justify the registration.
78. The word “substantial” is repealed in section 38(1)(b) of the 2003 Act and so the requirement concerning community members having a substantial connection with the land that the community body is seeking to register an interest in will be amended to just refer to a connection with that land. The repeal of “substantial” is effected by the repeals schedule (schedule 5 to the Act).
79. Section 38(1)(b) of the 2003 Act provides that Ministers must be satisfied that (i) a significant number of the members of the community must have a substantial connection with the land, and (ii) the land must be sufficiently near to land with which those members of the community have a substantial connection (“substantial” to be repealed as above). Section 41(a)(vi) of the Act adds 2 alternative criteria into section 38(1)(b) of the 2003 Act, in addition to the existing 2 criteria. The alternative criteria are (iii) where the community body is an eligible body for the purposes of Part 2 of the 2003 Act, that the land is in or sufficiently near to the area of the community, and (iv) where the community body is a body as prescribed by Ministers, the land is in or sufficiently near to the area of the community.
80. Section 41(c) of the Act inserts new subsections (2A) and (2B) into section 38 of the 2003 Act. Subsection (2A) precludes Ministers considering any community support that is dated earlier than 6 months before the date an application to register a community interest in land is received by Ministers. Subsection (2B) gives Ministers the power to amend the time limit in which the approval of a member of the community supporting a community body’s application must be dated. That time limit must not be less than 6 months.