



Community Empowerment (Scotland) Act 2015

2015 asp 6

PART 4

COMMUNITY RIGHTS TO BUY LAND

Modifications of Part 2 of Land Reform (Scotland) Act 2003

42 Procedure for late applications

(1) Section 39 of the 2003 Act (procedure for late applications) is amended as follows.

(2) For subsection (1), substitute—

“(1) This section (other than subsections (4A) and (5)) applies in relation to an application to register a community interest in land which satisfies—

- (a) the conditions mentioned in subsection (1A), or
- (b) the condition mentioned in subsection (1B).

(1A) The conditions are that—

- (a) before the date on which the application is received by Ministers, the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has taken action which, if a community interest had been registered, would be prohibited under section 40(1), and
- (b) on the date on which the application is received by Ministers—
 - (i) missives for the sale and purchase of the land in pursuance of that action have not been concluded, or
 - (ii) an option to acquire the land in pursuance of that action has not been conferred.

(1B) The condition is that, where another community body has registered an interest in the land, the application is received by Ministers—

- (a) after the date on which the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has,

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under section 48(1), notified that community body that a transfer is proposed, and

- (b) before Ministers have consented, under section 51(1), to a transfer to that community body.”.

(3) In subsection (2)—

(a) after paragraph (a), insert—

“(aa) Ministers may, before the end of the period of 7 days following receipt of the views of the owner of the land or, as the case may be, such a creditor under that section, request—

(i) the owner, such a creditor or the community body making the application to provide such further information as they consider necessary in connection with their being informed as mentioned in paragraph (a), and

(ii) that the further information be supplied within 14 days of the request,” and

- (b) in paragraph (b)(ii), after ““30””, insert “or (in a case where further information is requested under paragraph (aa)) “44””.

(4) In subsection (3), for paragraph (a), substitute—

“(a) that—

(i) such relevant work as Ministers consider reasonable was carried out by a person, or

(ii) such relevant steps as Ministers consider reasonable were taken by a person,

(aa) that the relevant work was carried out or the relevant steps were taken—

(i) at a time which, in the opinion of Ministers, was sufficiently in advance of the owner of the land or, as the case may be, the creditor taking the action such as is mentioned in subsection (1A), or giving notice such as is mentioned in subsection (1B),

(ii) in respect of land with a view to the land being used for purposes that are the same as those proposed for the land in relation to which the application relates, and

(iii) by the community body making the application or by another person with a view to the application being made by the community body,

(ab) that—

(i) in the period of 12 months before the application is received by Ministers, the owner of the land or, as the case may be, the creditor taking the action such as is mentioned in subsection (1A) did not make an offer to sell the land to the community body or a similar community body, or

(ii) in that 12 month period, the owner of the land or, as the case may be, the creditor did make an offer to sell the land to the community body or a similar community body and, in the opinion of Ministers, there are good reasons why the body did not purchase the land,”.

(5) After subsection (3), insert—

“(3A) Despite subsection (3), Ministers may decide that a community interest is to be entered in the Register even though the conditions in paragraphs (a) and (aa) of that subsection are not satisfied in relation to the interest, if Ministers are satisfied that there are good reasons—

- (a) why the conditions are not satisfied, and
- (b) for allowing the interest to be entered in the Register.

(3B) Ministers may, before the end of the period of 7 days following receipt under section 37(5) of the views of the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land, request—

- (a) any person they believe may be able to provide them with such further information as they consider necessary in connection with the matters mentioned in subsection (3) to provide the information, and
- (b) that the information be supplied within 14 days of the request.”.

(6) In subsection (4)(c), after “59(1)”, insert “, 60A(1)”.

(7) After subsection (4), insert—

“(4A) Subsection (5) applies in relation to an application to register a community interest in land where the application is received by Ministers after the following have occurred—

- (a) the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has taken action which, if a community interest in land had been registered, would be prohibited under section 40(1), and
- (b) either—
 - (i) missives for the sale and purchase of the land are concluded,
or
 - (ii) an option to acquire the land is conferred.”.

(8) In subsection (5), the words from “Where” to “land” are repealed.

(9) After subsection (5), insert—

“(6) In subsection (3)—

“relevant work” means anything done by way of preparation of an application to register a community interest in land,
“relevant steps” means any steps towards securing ownership of land by a community body.

(7) In subsection (3)(ab)—

- (a) references to “the land” include land that is, in the opinion of Ministers, mainly the same as the land to which the application mentioned in that subsection relates,
- (b) references to “an offer” are references to an offer in writing (or that is confirmed in writing),
- (c) a community body is, for the purposes of that subsection, similar to another community body if, in the opinion of Ministers, it is similar to the other body to a significant degree having regard to such matters as may be prescribed.

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- (8) In subsection (6), “land” means any land whether or not it is land in respect of which an application in relation to which this section applies is made.”.