
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

The Right to Buy Land to Further Sustainable Development (Eligible Land, Specified Types of Area and Restrictions on Transfers, Assignations and Dealing) (Scotland) Regulations 2020

Restrictions on dealings while application pending

Exceptions to regulation 8

- 9.—(1) Subject to paragraph (4), regulation 8 does not prohibit—
- (a) dealings with land subject to an application under section 54 of the Act of a type specified in paragraph (2), or
 - (b) dealings with the tenant's interest in land subject to an application under section 54 of the Act of a type specified in paragraph (3).
- (2) The dealings with land referred to in paragraph (1) are—
- (a) a transfer otherwise than for value,
 - (b) a transfer in implement or pursuance of an order of a court (other than an order under section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970⁽¹⁾ or a decree in an action for the division and sale of the land),
 - (c) a transfer between spouses or civil partners in pursuance of an arrangement between them entered into at any time—
 - (i) after they have ceased living together as spouses or civil partners, and
 - (ii) before the Scottish Ministers have received the application under section 54 of the Act,
 - (d) a transfer between cohabitants in pursuance of an arrangement entered into at any time—
 - (i) after they have ceased living together as if they were spouses or civil partners, and
 - (ii) before the Scottish Ministers have received the application under section 54 of the Act,
 - (e) a transfer between companies in the same group,
 - (f) a transfer to a statutory undertaker for the purpose of carrying on their undertaking,
 - (g) a transfer—
 - (i) implementing the compulsory acquisition of the land under an enactment,
 - (ii) by agreement, of land which could have been acquired compulsorily under an enactment,

⁽¹⁾ 1970 c.35, amended by section 4(3) of the Mortgage Rights (Scotland) Act 2001 [asp 11](#), paragraph 1(4) of the schedule of the Homelessness etc. (Scotland) Act 2003 [asp 10](#), section 2 of the Home Owner and Debtor Protection (Scotland) Act 2010 [asp 6](#) and section 152(2) of the Housing (Scotland) Act 2010 [asp 17](#).

- (iii) implementing a right conferred by or under Part 2, 3 or 3A of the Land Reform (Scotland) Act 2003⁽²⁾,
 - (iv) implementing a right conferred by or under Part 5 of the Act,
 - (v) implementing missives for the sale and purchase of land, but only if, on the date that the missives were concluded, no application under section 54 of the Act was included in the Register of Applications by Community Bodies to Buy Land,
 - (vi) implementing an option to acquire land, but only if, on the date that the option was created, no application under section 54 of the Act was included in the Register of Applications by Community Bodies to Buy Land,
 - (vii) vesting the land in a person for the purposes of any enactment relating to sequestration, bankruptcy, winding up or incapacity or to the purposes for which judicial factors may be appointed, or
 - (h) a transfer of land in consequence of—
 - (i) the assumption, resignation or death of one or more of the partners in a firm, or
 - (ii) the assumption, resignation or death of one or more of the trustees of a trust.
- (3) The dealings with a tenant's interest referred to in paragraph (1) are—
- (a) an assignation otherwise than for value,
 - (b) an assignation in implement or pursuance of an order of a court (other than an order of court under section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970 or a decree in an action for the division and sale of the tenant's interest),
 - (c) an assignation from one spouse or civil partner to another in pursuance of an arrangement entered into at any time—
 - (i) after they have ceased living together as spouses or civil partners, and
 - (ii) before the Scottish Ministers have received the application under section 54 of the Act,
 - (d) an assignation from one cohabitant to another in pursuance of an arrangement entered into at any time—
 - (i) after they have ceased living together as if they were spouses or civil partners, and
 - (ii) before the Scottish Ministers have received the application under section 54 of the Act,
 - (e) an assignation between companies in the same group,
 - (f) an assignation to a statutory undertaker for the purpose of carrying out their undertaking,
 - (g) an assignation—
 - (i) implementing the compulsory acquisition of the tenant's interest under an enactment,
 - (ii) by agreement, of the tenant's interest which could have been acquired compulsorily under an enactment,
 - (iii) implementing a right conferred by or under Part 5 of the Act,
 - (iv) vesting the tenant's interest in a person for the purposes of any enactment relating to sequestration, bankruptcy, winding up or incapacity or to the purposes for which judicial factors may be appointed, or
 - (h) an assignation of the tenant's interest in consequence of—

(2) 2003 asp 2. Part 3A of the Land Reform (Scotland) Act 2003 was inserted by the Community Empowerment (Scotland) Act 2015 asp 6.

- (i) the assumption, resignation or death of one or more of the partners in a firm, or
 - (ii) the assumption, resignation or death of one or more of the trustees of a trust.
- (4) The exceptions mentioned in paragraph (2)(a),(e) or (h) and (3)(a), (e) or (h) do not apply if
- (a) the transfer or, as the case may be, assignation—
 - (i) is, or forms part of, a scheme or arrangement, or
 - (ii) is one of a series of transactions, and
 - (b) the main purpose or effect, or one of the main purposes or effects, of the scheme, arrangement or series of transactions is to avoid the requirements or consequences of regulation 8.
- (5) In paragraphs (2)(f) and (3)(f), “statutory undertaker” is to be construed in accordance with section 214 (meaning of statutory undertaker) of the Town and Country Planning (Scotland) Act 1997(3).