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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 227**

**LAND REFORM**

**The Crofting Community Right to Buy  
(Ballot) (Scotland) Regulations 2004**

<i>Made</i>	- - - -	<i>18th May 2004</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>21st May 2004</i>
<i>Coming into force</i>	- -	<i>15th June 2004</i>

The Scottish Ministers, in exercise of the powers conferred by sections 75(2) and (4) of the Land Reform (Scotland) Act 2003<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Crofting Community Right to Buy (Ballot) (Scotland) Regulations 2004 and shall come into force on 15th June 2004.

(2) In these Regulations—

“the Act” means the Land Reform (Scotland) Act 2003; and

“crofting community body” means a body of the type defined in section 71 of the Act.

**Conduct of Ballot**

2. The ballot shall be a secret ballot and shall be conducted in a fair and reasonable manner.

3. The crofting community body shall ascertain—

(a) from the voters roll the number of eligible voters in the crofting community as defined for the purposes of section 71(1)(a) of the Act; and

(b) eligible voters who are tenants of crofts within the land which the crofting community body has applied to buy, or as the case may be, within land over which the sporting interests which the crofting community body has applied to buy may be exercised.

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(1) 2003 asp 2. Section 98(1) of the Act contains definitions of “Ministers” and “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

4.—(1) Subject to regulation 5 the date and place on which the ballot will be held shall be notified in writing to all eligible voters, and there shall be a period of not less than 10 days from the date on which such intimation is made to the date on which the ballot is to be held.

(2) The notice referred to in paragraph (1) shall set forth the question on which the eligible voters shall vote, and shall include a description of the eligible croft land and any eligible sporting interests to which the question pertains.

5. If the crofting community body wishes to hold a postal ballot each eligible voter shall be sent a ballot paper with the question on which the vote is to be taken and the date and time, being not less than 10 days from the date of posting, on which the paper must be returned. Each voter shall be provided with a stamped addressed envelope for returning the completed ballot paper.

### **Proxy Votes**

6. In the event of any eligible voter being unable for good cause to exercise his right to vote either at the ballot or in the postal ballot held by virtue of regulations 4 and 5 respectively the crofting community body may permit a proxy to vote for that person. The crofting community body must retain a record of any proxy authorisations, and the proposed use of a proxy must be notified in writing by the eligible voter to the crofting community body prior to the ballot.

### **Ballot results**

7.—(1) Within 14 days of the holding of the ballot, or in the case of a postal ballot, within 14 days from the date specified for the return of the ballot papers, the crofting community body shall publish in a newspaper circulating in the vicinity of the community—

- (a) the number of persons eligible to vote in the ballot;
- (b) the number of persons eligible to vote who voted; and
- (c) the number of votes cast for and against the question.

(2) Within 21 days of the ballot, or if the application to exercise the right to buy is made sooner, with the application, the crofting community body shall return to Ministers in, or as near as may be in, the form specified in the Schedule to these Regulations the information detailed therein.

(3) Ministers may within a period of 7 days after the return of the ballot result request from the crofting community body such additional information pertaining to the ballot as they may require, and the crofting community body shall supply such information within a further period of 7 days from the date of the request being made.

### **Retention of Ballot papers etc**

8. The crofting community body shall retain—

- (a) all completed voting papers;
- (b) in the case of a postal ballot evidence of sending the ballot papers; and

for a period of 2 years after the date of the ballot, and these papers and evidence shall be available, on request, for inspection by members of the crofting community, Ministers and any other person with a right of appeal under section 91 of the Act.

St Andrew's House, Edinburgh  
18th May 2004

*ALLAN WILSON*  
Authorised to sign by the Scottish Ministers

## SCHEDULE

Regulation 7

### LAND REFORM (SCOTLAND) ACT 2003

#### BALLOT RETURN FORM

1. Name of crofting community body.
2. Date of ballot.
3. Question which was put to the ballot.
4. Result of vote.
5. Number of persons eligible to vote.
6. Number of those persons who are tenants of crofts within the land which the crofting community body proposes to buy.
7. Number of persons who voted (including details of the number of proxy votes cast) and the number of those persons who are such tenants.
8. Number of persons who voted in favour of the proposal to buy and the number of those persons who are such tenants.
9. Name, address and telephone number of crofting community body representative making the ballot return.

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out the requirements on a crofting community body which is holding a ballot under section 75 of the Land Reform (Scotland) Act 2003 on the question of whether to proceed with a land purchase.

Regulation 2 provides that there be a secret ballot and that it should be conducted in a fair and reasonable manner. Under regulation 3 the crofting community body is required to ascertain from the voters roll who is eligible to vote in the ballot, and in addition to identify tenants of crofts who are eligible voters. Regulations 4 and 5 give the crofting community body the option of holding an ordinary ballot or a postal ballot, and regulation 6 permits proxy votes in certain circumstances.

Regulation 7 requires the crofting community body to publish the result of the ballot in a newspaper circulating in the vicinity, and also to notify Scottish Ministers of the result and the other information requested in the Schedule to the Regulations. Scottish Ministers are empowered to call for additional information pertaining to the ballot from the community body. Regulation 8 provides for the retention by the crofting community body of the ballot papers; where a postal ballot has been held, evidence of the sending of the ballot papers; and any proxy authorisations and notifications of intention to use a proxy for a period of 2 years. That regulation also permits Scottish Ministers and specified persons to inspect the documents retained.