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## EXPLANATORY NOTE

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

These Regulations make provision in connection with the community right to buy under Part 2 of the Land Reform (Scotland) Act 2003 (“the Act”).

Regulation 1 sets out certain defined terms to be used throughout the Regulations. It also sets out in paragraph (3) in what circumstances Parts 2 to 9 of the Regulations apply.

Regulation 2 sets out the types of area that can be used by a community body when describing the area of the community to which it relates. Section 35(5)(a) of the Act allows community bodies to make reference to postcode units when describing that area. Regulation 2 extends this so that they can also refer to electoral wards, community council areas, postcode areas, postcode districts, postcode sectors, island, settlements and localities. Settlements and localities are defined by reference to the National Statistics publications noted at regulation 2(g) and (h). These publications are held by the National Records of Scotland, New Register House, 3 West Register Street, Edinburgh, Scotland, EH1 3YT and are available from the weblinks noted in the footnotes to regulation 2(g) and (h).

Regulation 3 states that the specifications to which maps, plans or other drawings are to be prepared for the purposes of their inclusion in the Register of Community Interests in Land (“the Register”) are set out in Part 1 of Schedule 1.

Regulation 4(a) states that the form of application to register a community interest in land under section 37(1) of the Act is set out in Schedule 2. This application form is only to be used the first time an application is made to register the interest in land – re-registrations are dealt with at regulation 5. Regulation 4(b) states that an application to re-register a community interest in land under section 37(1) of the Act, pursuant to the re-registration provisions in section 44 of the Act is set out in Schedule 3. An application to re-register an interest can be made at any time within six months before the expiry of the five year period from the date when it was previously registered. This application form allows the community body to refrain from answering certain questions if the information to which those questions relate has not changed since its previous application to register the interest.

Regulation 5 sets out the kinds of information which must accompany an application to register or re-register a community interest in land.

Regulation 6 states that the notice of the proposed application to register a community interest in land that must be affixed to a part of the land (except where that land consists of salmon fishings or mineral rights), where the owner or creditor in a standard security is unknown or cannot be found, is set out in Schedule 4.

Regulation 7 sets out the manner of advertising by which a public notice must be given of a proposed application which relates to salmon fishings or mineral rights where the owner or creditor in a standard security is unknown or cannot be found.

Regulation 8 states that the form of notice that is required to be sent by Scottish Ministers (“Ministers”) under section 37(17) of the Act of their decision whether or not the community interest is to be entered in the Register is set out in Schedule 5.

Regulation 9 states that the form of notice that is required to be given by the owner of land or creditor in a standard security with a right to sell the land in accordance with section 48(1) of the Act, where that owner or creditor proposes to transfer the land or any part of it, is set out in Schedule 6.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 10(1) states that the form of notice that is required to be sent by Ministers under section 49(2)(a) of the Act (which must be sent to the community body to seek its confirmation in writing that it will exercise its right to buy the land) is set out in Schedule 7. Regulation 10(2) states that the form of notice that is required to be sent by Ministers under section 49(2)(b) of the Act, which must be sent to the owner of the land narrating Ministers' compliance with section 49(2)(a) of the Act, is set out in Schedule 8.

Regulation 11 relates to applications made under section 37(1) of the Act to which section 39 of the Act applies. Section 39(3) of the Act sets out the matters of which Ministers must be satisfied before entering a community interest in the Register where that community interest is as a result of such an application (a "late application"). One of these matters is that either (i) in the period of 12 months before the application is received by Ministers, the owner or creditor did not make an offer to sell the land to the community body or a similar community body, or (ii) if such an offer was made, there are good reasons why the body did not purchase the land. Section 39(7)(c) of the Act provides that a community body is 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 matters which are to be set out in regulations. Regulation 11 sets out what these matters are.

Regulation 12 states that the specifications to which maps, plans or other drawings are to be prepared when provided to Ministers under section 41(3)(b) of the Act (which the owner or creditor is required to do when it has made a transfer of land as mentioned in section 40(4)(a) to (h) of the Act) are set out in Schedule 9.

Regulation 13 sets out the information that Ministers must, under section 51A(2)(b) of the Act, provide to a ballotter which has been appointed to conduct the ballot that is required to indicate the approval of the community to the purchase of the land by the community body.

Regulation 14 sets out that the information that the community body must, under section 51A(6) of the Act, provide to the ballotter is set out, along with the form in which it must be provided, in Schedule 10.

Regulation 15 describes how the ballot must be conducted by the ballotter. Regulation 15(1) provides that the ballot must be a secret postal ballot. Regulation 15(2) provides that the ballotter must ascertain the persons eligible to vote. Regulation 15(3) describes the procedure for sending ballot papers to those persons eligible to vote, and regulation 15(4) provides that those persons must be sent a stamped address envelope for returning the completed ballot paper.

Regulation 16(1) states that a person eligible to vote in the ballot may request to be permitted a proxy vote. Regulation 16(2) sets out the requirements of such a request. Regulation 16(3) states that the ballotter must permit a proxy vote to a person who makes a valid request.

Regulation 17(1) sets out the requirements of the ballotter for publication of the ballot results. Regulation 17(2) states that the form in which notification under section 52(3) of the Act must be made (which is notification to the Ministers, the community body, the owner of the land and any creditor in a standard security with a right to sell the land) of certain information about the ballot, including the ballot results) is set out in Schedule 11.

Regulation 18(1) states that the ballotter must retain certain information about the ballot for a period of 2 years from the date of that ballot. Regulation 18(2) states that the ballotter must make that information available for inspection by Ministers or any person with a right of appeal under section 61 of the Act within 28 days of receipt of a request to do so.

Regulation 19 provides that Ministers may review whether a ballot was conducted in accordance with the requirements of regulations 15 to 17. Regulation 19(1) sets out that such a review can be carried out at the request of a community body, the owner of the land or a creditor in a standard security with a right to sell the land, or it can be carried out when Ministers have reason to believe that the ballot has not been conducted in accordance with the requirements of those regulations. Regulation 19(2) sets out the requirements of a request to Ministers to carry out a review. Regulation 19(3) to (6) set out the procedure of the review, including provision for Ministers to obtain the views of the

community body, the owner or creditor. Regulation 19(7) states that, where two or more requests to review the conduct of the ballot are received, Ministers may decide upon those requests together. Regulation 19(8) states that, if Ministers decide that a ballot has not been conducted in accordance with regulations 15 to 17, a further ballot must be conducted in accordance with regulation 20.

Regulation 20 sets out the requirements for the conduct of a further ballot that must be carried out as a result of Ministers deciding that a ballot was not conducted in accordance with regulations 15 to 17. Regulation 20(1) states that such a further ballot must be conducted in accordance with the requirements of regulations 15, 16 and 17(1). Regulation 20(2) sets out what information must be provided by Ministers to the ballotter for the purposes of the further ballot. Regulation 20(3) sets out what information must be provided by the community body to the ballotter for the purposes of the further ballot. Regulation 20(4) and (5) sets out the notification requirements of the ballotter in relation to the result of the ballot. Regulation 20(6) states that the expenses of any further ballot are to be met by Ministers. Regulations 20(7) and (8) provide for the retention of, and provision of, certain information about the further ballot by the ballotter.

Regulation 21 states that the information to be provided to Ministers under section 51B(1)(a) of the Act, and the form in which that information is to be provided, is set out in Schedule 12. This information is to be provided to Ministers for the purposes of deciding whether or not Ministers are satisfied as mentioned in section 51(3) of the Act in relation to a community body.

Regulation 22 provides for the procedure by and manner in which compensation for loss or expenses may be claimed by any person (other than a community body) from Ministers under section 63 of the Act. Regulations 22(1) to (5) set out the timescales for making a claim under section 63 of the Act. Regulation 22(6) states that such a claim must specify under which paragraph or paragraphs of section 63(1) it is being made and must be accompanied by evidence of all losses and expenses. Regulation 22(7) states that the person making the claim must be informed of the amount of compensation payable within 40 days of the submission of the claim.

Regulation 23 provides for savings. It sets out the circumstances in which the regulations listed in Schedule 13 continue to have effect. These circumstances all relate to an application to register a community interest in land made before 15th April 2016.