

EXECUTIVE NOTE

THE COMMUNITY RIGHT TO BUY (PRESCRIBED FORM OF APPLICATION AND NOTICES) (SCOTLAND) REGULATIONS 2009

SSI/2009/156

Introduction

1. The Regulations are made in exercise of the powers conferred by sections 37, 48 and 49 of the Land Reform (Scotland) Act 2003 (“the Act”). They prescribe a new form of application for applications by a community body to register or to re-register an interest in land. They also prescribe the form of a number of notices for the purposes of Part 2 of the Act. They revoke the Community Right to Buy (Forms) (Scotland) Regulations 2004 (S.S.I. 2004/233)(“the 2004 Regulations”). They are subject to negative Parliamentary procedure.

Policy objectives

2. Section 37(1) of the Act requires a community body that wishes to register an interest in land to make an application in that regard on the prescribed form. Section 44(2) of the Act makes provision in relation to the re-registration of such an interest, and requires a community body to apply, under section 37 of the Act, to re-register its interest. The application to register an interest is currently prescribed in the 2004 Regulations (in Schedule 1) together with other notices required in terms of Part 2 of the Act. There is currently no application prescribed for the purposes of re-registering an interest in land.

3. The purpose of the Regulations is, principally, to prescribe the form of a new application to be completed by community bodies wishing to register or re-register an interest in land. The new application, which is specified in Schedule 1 to the Regulations, replicates, with minor changes, the existing application for registration in Schedule 1 to the 2004 Regulations. The new application clarifies certain questions on the existing application which applicants have had difficulty understanding, and also enables the same application to be used for both registration and re-registration , thereby minimising effort for community bodies.

4. The application, contained in Schedule 1 to the Regulations, specifies the information which section 36 of the Act requires be provided by a community body when submitting an application for registration or re-registration. As Ministers require the same information to come to a decision on both matters and both applications are subject to the same procedures under the Act (except for “late applications” under section 39), it is considered expedient to deal with both types of application using the same form. Community bodies are required to indicate which application they are making (i.e., registration or re-registration). All information provided in a community body’s application is made available on the Register of Community Interests in Land (RCIL).

5. Regulation 3 of the Regulations introduces Schedule 2, which provides for the form of a Notice which must be posted conspicuously on land which is the subject of

an application under section 37 of the Act, and where the landowner or the heritable creditor of that land cannot be traced. This Notice may now be used in relation to applications both for registration and for re-registration of an interest in land.

6. Regulation 4 of the Regulations introduces Schedule 3, which specifies the form of a Notice upon which Ministers inform community bodies of their decision on whether to register / re-register an interest in land. Again, this Notice may be used in relation to applications both for registration and for re-registration.

7. Regulations 5 and 6 of the Regulations introduce, respectively, Schedules 4, 5 and 6, which provide for the form of a Notice which the owner of the land, or a creditor in a standard security, is to give to a community body and Ministers when a transfer of land is proposed, and the form of Notices to be given by Ministers to a community body and to the owner of land following receipt of a Notice under section 48 of the Act.

Consultation

8. Detailed proposals for the 2004 Regulations were first set out in the White Paper “Land reform – proposals for legislation”, published in July 1999, and were then made available during November 2003. Since the 2004 Regulations came into force, no new policy concerns have been raised. As these Regulations enable the continuance of registrations which would otherwise expire after five years, and do not impose any new requirements on community bodies in addition to those which are required for registration, it is not considered necessary to undertake a further consultation exercise. Community bodies which wish to re-register their community interest in land are already aware of, and have complied with, the requirements for registration.

Financial effects

9. The Regulations have no financial effects on the Scottish Government, local government, business, or the voluntary sector. Community bodies which will complete the registration / re-registration application are from the voluntary sector. The need for a Regulatory Impact Assessment was considered but as the Regulations do not impose any additional work or burdens, in terms of additional applications to complete or additional sections to the existing application, or financial costs, it was not considered necessary to undertake one.

Scottish Government
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