

LAND REFORM (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 2 the Community Right to Buy

Section 37: Registration of interest in land

145. [Section 37](#) sets out the process for registering an interest in land and sets out the roles of the community body, Ministers, the owner and any heritable creditor in relation to any such registration.
146. Subsection (1) provides that a community interest may be registered only on the application of a community body. The form and contents of an application, and details of information which must accompany an application, will be prescribed by regulations made by Ministers.
147. In terms of subsection (2), a community body applying to register an interest in land must notify Ministers of the existence of any standard security over the land in question. The notice must be in the form prescribed by regulations made by Ministers.
148. Subsections (3) and (4) provide that, where the owner of land to which an application relates or, as the case may be, a creditor in a standard security over an interest in the land is unknown or cannot be found, Ministers are relieved of certain of their duties under this section in relation to that person.
149. Subsections (5) to (12) set out the procedure to be followed by Ministers on receipt of an application from a community body. They must seek and consider the views of the owner of the land to which the application relates (and the views of the applicant on the owner's views). Subsection (5)(c) requires Ministers to ascertain whether a creditor with an interest in land to which an application relates has taken steps to enforce the security in terms of the [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c.35\)](#) and, if so, to involve that creditor in the process
150. In terms of subsection (5)(e), Ministers must, by notice, prohibit the owner of land to which an application relates and any creditor in a standard security over the land from transferring or taking any action to transfer the land (other than by way of a transfer to which section 40(1) does not apply) whilst Ministers are in the process of determining the application. In terms of subsection (8), a transfer in breach of such a prohibition is of no effect.
151. Subsection (13) provides that more than one community body may register an interest in the same area of land.
152. Subsections (14) to (16) allow a community body to register an interest in more than one holding of land, but a separate application is required for each holding. Subsections (17) to (19) set out the timescale and the procedure for Ministers to notify the community body, the owner of the land and any creditor with a right to sell of their decision whether or not to register the community interest. Subsection (20) requires Ministers to direct

*These notes relate to the Land Reform (Scotland) Act 2003
(asp 2) which received Royal Assent on 25 February 2003*

the entry of an interest in the Register with effect from the date of their decision that
is should be entered.