



Land Reform (Scotland) Act 2003

2003 asp 2

PART 2

THE COMMUNITY RIGHT TO BUY

CHAPTER 2

REGISTRATION OF INTERESTS

39 Procedure for late applications

- (1) This section applies in relation to an application to register a community interest in land—
- (a) where the application is received by Ministers—
 - (i) after the date on which the owner of the land or, as the case may be, a creditor in a standard security with a right to sell the land has taken action which, if a community interest had been registered, would be prohibited under section 40(1) below; and
 - (ii) before the date on which—
 - (A) missives for the sale and purchase of the land are concluded;
or
 - (B) an option to acquire the land is conferred,
in pursuance of that action; or
 - (b) where another community body has registered an interest in the land, where the application is received by Ministers—
 - (i) after the date on which the owner of the land or, as the case may be, such a creditor has, under section 48(1) below, notified that community body that a transfer is proposed; and
 - (ii) before Ministers have consented, under section 51(1) below, to a transfer to that community body.
- (2) Where this section applies in relation to an application—

Status: This is the original version (as it was originally enacted).

- (a) the owner of the land or, as the case may be, such a creditor shall, on receipt of an invitation under section 37 above, inform Ministers that this section applies; and
 - (b) the procedure for registering community interests in land set out in section 37 above is, for the purposes of the application, subject to the following modifications—
 - (i) paragraph (b) of subsection (9) does not apply; and
 - (ii) in subsection (17), for “63” there is substituted “30”.
- (3) Where this section applies in relation to an application, Ministers shall not decide that a community interest is to be entered in the Register unless they are (additionally to the matters as to which they are to be satisfied under section 38 above) satisfied—
- (a) that there were good reasons why the community body did not secure the receipt of an application before the owner of the land or, as the case may be, the creditor took the action, or gave the notice, such as is mentioned in subsection (1) above;
 - (b) that the level of support within the community for such registration is significantly greater than that which Ministers would, by virtue of subsection (2) of that section, have considered sufficient for the purposes of subsection (1)(d) of that section had the application been received before that action was taken or, as the case may be, the notice was given; and
 - (c) that the factors bearing on whether it is or is not in the public interest that the community interest be registered are strongly indicative that it is.
- (4) Where a community interest in land is registered in pursuance of an application in relation to which this section applies—
- (a) the owner of the land is, for the purposes of this Part of this Act (other than section 59(4)), deemed to have, on the date on which that interest is so registered, given notice under section 48(1) below that a transfer is proposed;
 - (b) section 49 below does not apply in so far as it relates to that interest; and
 - (c) for the purposes of sections 55(2) and (4), 56(3), 59(1) and 65(1)(a) below, the community body is deemed to have sent the confirmation which Ministers would, had section 49 below applied, have required to seek under subsection (2)(a) of that section on the date on which the interest is registered.
- (5) Where, but for the provision made by subsection (1)(a)(ii) above, this section would apply in relation to an application to register a community interest in land Ministers—
- (a) shall decline to consider the application; and
 - (b) shall be relieved of their duties under subsections (5) to (10), and paragraphs (b) and (c) of subsection (17), of section 37 above in relation to that application.