

# Scottish Statutory Instrument 2004 No. 233

## The Community Right to Buy (Forms) (Scotland) Regulations 2004

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### SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 233**

### **LAND REFORM**

#### The Community Right to Buy (Forms) (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 37, 48 and 49 of the Land Reform (Scotland) Act 2003[1], 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 Community Right to Buy (Forms) (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

"Schedule" means the Schedule so numbered to these Regulations.

**Application to register an interest in land**

2. An application by a community body to register an interest in land under section 37(1) of the Act shall be submitted to Ministers in or as near as may be in the form specified in Schedule 1.

**Notice where owner or creditor may be unknown**

3. For the purposes of satisfying Ministers whether an owner of land in which a community interest is sought to be registered or, as the case may be, a creditor in a standard security over any part of that land, is unknown or cannot be found the notice which the community body is required to affix to the land in terms of section 37(4) of the Act shall be in or as near as may be in the form specified in Schedule 2.

**Notice by Ministers on whether community interest is to be registered**

4. The notice specified in section 37(17) of the Act intimating the decision of Ministers on whether a community interest is to be entered in the Register of Community Interests in Land shall be in or as near as may be in the form specified in Schedule 3.

**Notice by owner or creditor of proposed transfer of land**

5. Where an owner of land, or a creditor in a standard security, is required under section 48 of the Act to notify a community body and Ministers of a proposed transfer of land, the notification shall be in or as near as may be in the form specified in Schedule 4.

**Notices following receipt of a notice under section 48 of the Act**

6. The notices required to be sent by Ministers under section 49(2)(a) (notice seeking confirmation of exercise of right to buy) and (2)(b) (notice narrating compliance) of the Act shall be in or as near as may be in the forms specified in Schedules 5 and 6 respectively.

*ALLAN WILSON*

Authorised to sign by the Scottish Ministers

St Andrew's House, Edinburgh  
18th May 2004

## Regulation 2

	
<b>Official Use only</b>	
<b>Received date</b>	
<b>Maps incl.</b>	
<b>Expiry</b>	

### *Land Reform (Scotland) Act 2003*

#### APPLICATION FORM TO REGISTER A COMMUNITY INTEREST IN LAND

*Please use black ink and capital letters*

#### **Part A**

##### **1. Name of Community Body:**

Contact Title:

Contact Forename:

Contact Surname:

House Name:

House Number:

Street Name:

Post Town:

Postcode:

Telephone Number:

Fax Number:

Email Address (if available):

##### **2. Company details:**

A Community Body must be a Company Limited by Guarantee, registered in Scotland. A copy of the **Memorandum** and the **Articles of Association** of the Community Body should be enclosed.

Company

Registration Number:

Name of Registered Office:

Address of Registered Office:

Postcode:

**3. Location of Community, as defined by the Community Body:**

Postcode Unit(s) covering community area:

Name, location and boundaries of the community. Please also show the community in relation to the land to be registered on one map, if possible (complete on a separate sheet if necessary):

**4. Details of land in which interest is being registered**

No. of maps/drawings enclosed:

County:

Postcode Details:

OS Grid Reference number:

Written description sufficient to identify the land in which interest is to be registered (complete on a separate sheet if necessary):

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**NOTE:**

A map or plan must be supplied and requires to conform to the Community Right to Buy (Specification of Maps) (Scotland) Regulations 2004[2].

**5. Details about the landowner**

If the landowner is unknown, enter "**Unknown**" in "Name" field below and see Q10 to **Part B** of this form.

Title:

Name:

Address:

Postcode:

**6.** We apply for registration of our interest in the land specified in this application under the Land Reform (Scotland) Act 2003. We certify that the information supplied in this application is correct to the best of our knowledge and belief.

Title of Chairperson:

Name of Chairperson:

Signature: .....

Title of Secretary (or other representative):

Name of Secretary (or other representative):

Signature: .....

Date:

**Part B**

Delete **YES** or **NO** as appropriate.

N.B. If more space is required for any question on this part of this form, please indicate at the bottom of each question that you have continued on additional pages. These additional pages should be attached to the end of this form.

<p><b>Q1.</b> As far as you are aware, has your application to register an interest in land been submitted timeously i.e. before missives for the sale of the land have been concluded or an option to acquire the land has been conferred? <b>YES/NO</b></p> <p>If NO, you should complete Q8.</p>
<p><b>Q2.</b> Please provide the names and addresses of the Chairperson and Secretary (or other representative) of the Community Body.</p> <p>Chairperson's title:</p> <p>Chairperson's forename:</p> <p>Chairperson's surname:</p> <p>Address:</p> <p>Post town:</p> <p>Postcode:</p> <p>Secretary's (or other representative's) title:</p> <p>Secretary's (or other representative's) forename:</p> <p>Secretary's (or other representative's) surname:</p> <p>Address:</p> <p>Post town:</p> <p>Postcode:</p>
<p><b>Q3.</b> Please state the names and addresses of all members of the Community Body and those who are members of the community as defined under section 34(5) of the Act.</p>

**Q4. Do you have at least 10% support from the community?  
YES/NO**

If YES, please provide details.

If NO, please indicate what percentage of support you consider that you have. Also please provide reasons why the support is less than 10% and why you think the application should be approved.

**Q5. Does your application include salmon fishings which are owned separately from the land in respect of which they are exigible? YES/NO**

If YES, please provide details.

**Q6. Does your application include mineral rights? YES/NO**

If YES, please provide details of rights and any separate ownership involved.

**Q7. Do a significant number of members of the community have a substantial connection with the land in which it is desired to register an interest? YES/NO**

Alternatively, is the land in which it is desired to register an interest sufficiently near to land with which those members of that community have a substantial connection, and would its acquisition by the community body be compatible with furthering the achievement of sustainable development? **YES/NO**

**Q8. If you have answered "NO" to Q1 of Part B to this form, please provide any reasons why your application is not timeous and why the procedure in section 39 (procedure for late applications) of the Act should apply. Please also provide the additional information required therein.**

**Q9. Please provide details of the checks made, and by whom, to establish the ownership details provided in Section 5 of Part A to this form, and heritable creditor details in Q11 below.**

**Q10. If you have entered "Unknown" at Section 5 of Part A to this form, please provide details of tasks undertaken to identify the owner (see requirements in section 37(4) of the Act).**

**Q11 Please list the names and addresses of all persons who are known to you to have legally enforceable rights and interests in the subjects of the application, including all persons with leases or other legally enforceable rights or interests in all or part of the land and any heritable creditors. Please also provide details of any such rights.**

**Q12 Does the land, or any part thereof, in which you are applying to register an interest:**

(a) have planning permission?; or **YES/NO**

(b) have an outstanding planning application relating to it?  
**YES/NO**

Is the land, or part thereof, included for development in the relevant  
Local Authority Local Plan? **YES/NO**

If YES to any part of this question, please provide details.

**Q13.** Is any part of the land in your application known to be the  
subject of a compulsory purchase order? **YES/NO**

If YES, please provide details.

**Q14.** Please provide an explanation as to how the development  
proposals of the Community Body are compatible with furthering the  
achievement of the sustainable development of the land and any  
salmon fishings and mineral rights included in this application.

**Q15.** Please provide an explanation as to how the development  
proposals of the Community Body are compatible with furthering the  
achievement of sustainable development of the community to which  
this application relates and how they will offer increasing social and  
economic advantage to that community.

**Q16.** Is the amount of land being acquired sufficient to support  
any salmon fishings and mineral rights included, and sufficient to  
further the achievement of the sustainable development of the  
community? **YES/NO**

If YES, please supply details of how that support is to be achieved.

If NO, please indicate why this interest should be registered.

**Q17.** Please provide an assessment of any expected impact on  
any neighbouring communities and on the wider community and, if  
appropriate, any expected impact on the remainder of the estate of  
which the land in this application forms a part.

**Q18.** Please provide an explanation as to why you consider that  
granting your application would be in the public interest.

Completed forms should be returned to:

**Land Reform (Scotland) Act: Community Right to Buy**

**Area 1D**

**Pentland House**

**Edinburgh**

**EH14 1TY**

**SCHEDULE 2**

**Regulation 3**

Notice to be affixed to land under section 37(4) of the Land Reform (Scotland) Act 2003

This notice is intimation that the [*insert name of community body*] is applying to the Scottish Ministers under section 37(1) of the Land Reform (Scotland) Act 2003 to register an interest in [*describe area and location of plot*] which is shown on the plan annexed. If you are the owner of the land, or a heritable creditor in possession of it, you should immediately contact [*insert details of contact for community body*] or the Land Use and Rural Policy Division, Scottish Executive Environment and Rural Affairs Department, Pentland House, Robb's Loan, Edinburgh (Tel: 0131 244 6003).

Date: .....	.....
.....	.....
	Signed (Official of Community Body)

**SCHEDULE 3**

**Regulation 4**

Notice by the Scottish Ministers under section 37(17) of the Land Reform (Scotland) Act 2003

The Scottish Ministers have considered the application by [*name of community body*] to register an interest in [*insert details of land*] and have decided that the interest should/should not be entered in the Register of Community Interests in Land for the following reasons:-

**NOTES**

Where a community interest in land is registered the owner of the land, and any creditor in a standard security having right to sell the land, is prohibited from transferring the land, or any part of it or from taking any action with a view to transferring it. The exemptions to these prohibitions are contained in section 40(4) of the Act.

A community body, or an owner of land, may by virtue of section 61(1) or (2) of the Act, appeal by summary application to the sheriff against a decision by Scottish Ministers to register or refuse to register an interest in land.

A person who is a member of the community, as defined in section 34(5) of the Act, or who has an interest in the land giving rise to a right which is legally enforceable by that person may, by virtue of section 61(3) of the Act, appeal by summary application to the sheriff against a decision to register an interest in land.

#### SCHEDULE 4

##### Regulation 5

Notice by an owner or creditor to a community body and the Scottish Ministers under section 48(1) of the Land Reform (Scotland) Act 2003

I/We , owner(s)\* of [*here specify land in respect of which a community interest has been registered, or any land of which that land forms part*] hereby give(s) notice in terms of section 48(1) of the Land Reform (Scotland) Act 2003 to [*specify community body or bodies with registered interest*] and to the Scottish Ministers that I/we propose to transfer the above mentioned land.

Date: .....	.....
.....	.....
	(Signed by owner)*

\* If appropriate insert details of a creditor in a Standard Security with a right to sell the land.

#### SCHEDULE 5

##### Regulation 6

Notice by the Scottish Ministers to a community body under section 49(2)(a) of the Land Reform (Scotland) Act 2003

To [*specify community body*]

Take notice that the Scottish Ministers have been informed that the owner of the land at [*here specify land*] in which you have a registered interest is proposing to transfer that land. In terms of section 49 of the Land Reform (Scotland) Act 2003 you have until \* [*here insert date in terms of section 49(4) of the Act*] to confirm in writing that you intend to exercise the right to buy the said land. If the Scottish Ministers have not received confirmation by the due date of the intention to proceed, in terms of section 49(4) of that Act the Scottish Ministers will be deemed to have received written notice from you under section 54(1) of the Act that you will not exercise the right to buy the said land. When the Scottish Ministers give notice of the declinature of the right to buy to the Keeper of Registers and the owner of the land your right to

buy will be extinguished.\*\*

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\*Confirmation must be with Scottish Ministers by this date.

\*\*A community body can register a community interest in the same land for a second or subsequent time.

## SCHEDULE 6

### Regulation 6

Notice by Scottish Ministers to an owner of land under section 49(2)(b) of the Land Reform (Scotland) Act 2003

To *[specify owner of land]*

Take notice that the Scottish Ministers have, in compliance with section 49(2) (a) of the Land Reform (Scotland) Act 2003, requested from the *[here insert name of community body]* confirmation that it intends to exercise its right to buy the land at *[here specify land]* of which you are the owner.\* The *[name of community body]* have until *[insert date]* to supply this confirmation.\*\*

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\*If appropriate insert details of a creditor in a standard security with a right to sell the land.

\*\*If this confirmation is not received by the due date, in terms of section 49(4) of the Act, Scottish Ministers will be deemed to have received written notice from the community body under section 54(1) of the Act, and the right to buy shall be extinguished.

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## EXPLANATORY NOTE

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

These Regulations specify the forms which must be used in connection with various procedures under Part 2 (Community Right to Buy) the Land Reform (Scotland) Act 2003 (asp 2) ("the Act"). Regulation 2 specifies that an application by a community body to register an interest in land under section 37(1) of the Act should be in or as near as may be in the form in Schedule 1 to these Regulations.

Regulation 3 prescribes the notice which must be used by such a community body where the owner of land in which a community interest is sought to be registered, or a creditor in a standard security over any part of that land, may be unknown or cannot be found. The notice must be affixed to a part of the land and its form is specified in Schedule 2.

Regulation 4 and Schedule 3 specify the form of notice which must be used by the Scottish Ministers when they are intimating their decision on whether or not a community interest is to be registered in the Register of Community Interests in Land.

Regulation 5 and Schedule 4 specify the form of notice which must be given to such a community body and the Scottish Ministers by the owner of land, or a creditor in a standard security over that land, under section 48 of the Act (duties on owner, or creditor, proposing to transfer land) where there is a proposed transfer of the land.

Regulation 6 prescribes the notices to be given by the Scottish Ministers to such a community body and to the owner of the land following receipt of a notice under section 48 of the Act. These notices are specified in Schedules 5 and 6 respectively.

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*Notes:*

[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.[back](#)

[2] S.S.I. 2004/231.[back](#)

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