



Environment and Rural Affairs Department

**Land Use & Rural Policy**

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Your ref:  
Our ref: ZLA 14/4

19 August 2003

Dear Sir/Madam

**LAND REFORM (SCOTLAND) ACT 2003**

**PART 2: COMMUNITY RIGHT TO BUY: CONSULTATION ON DRAFT REGULATIONS**

On behalf of Scottish Ministers, I am writing to invite you to comment on the attached draft regulations, which should be laid before Parliament later this year. These regulations are required to implement Part 2 of the Land Reform (Scotland) Act 2003, which received Royal Assent on 25 February 2003.

The attached regulations will have the following effect:

**The Community Right to Buy (Definition of Excluded Land) (Scotland) Order** will define the land which is excluded from the community right to buy, thereby defining rural land as that land to which the right to buy does apply. **We would particularly welcome your views on the proposed population threshold.**

**The Community Right to Buy (Ballot) (Scotland) Regulations** set out the requirements on a community body which is holding a ballot of members of the community under section 52, as part of the process of applying to Ministers to seek their approval to the right to buy.

**The Community Right to Buy (Compensation) (Scotland) Regulations** define the circumstances in which compensation may be claimed by landowners and others who suffer losses as a result of the operation of Part 2 of the Act.

Regulations will also be required to define the form and content of applications for registration, the format of maps and plans attached to such applications, and the standard letters to be sent by Ministers as part of the registration and right to buy processes. Copies of these orders are available in draft from the address at the end of this letter.



## Previous consultation and legislative process

The detailed proposals for a community right to buy were first set out in the White Paper “Land Reform- Proposals for Legislation”, published in July 1999. This was followed in February 2001 by the draft Land Reform (Scotland) Bill, and further amendments were made before the Bill was introduced in Parliament in November 2001. The Bill was further amended at Stages 2 and 3 of the Parliamentary process, and was passed by the Parliament on 23 January 2003. It received Royal Assent on 25 February 2003.

## Content of Regulations

Under section 33(3)(b) of the Land Reform (Scotland) Act 2003, Ministers are required to secure that registrable land is land appearing to them to be rural. During previous consultations, the proposed population threshold for defining excluded areas was over 3,000. However, in order to maximise the potential of the legislation and apply it to other land with predominantly rural characteristics, Ministers are proposing that the best distinction between urban and rural communities for the purposes of the community right to buy is at a population threshold of over **10,000**. Communities up to 10,000 in rural areas display many of the same characteristics of rural land as smaller settlements. These include a reliance on land to help deliver community wide benefits in the social, environmental and economic areas; the importance of certain specific areas of land or buildings to community development and the concentration of land ownership in a few hands. Increasing the population threshold will therefore reduce the amount of land excluded from the legislation, will provide the opportunity for a further 117 settlements, consisting of 675,500 of Scotland's population, to benefit from the right to buy, and will ensure that these additional communities will be given the opportunity to determine their own future when land in which they have registered an interest comes to be sold. The Definition of Excluded Land Order therefore provides that land within settlements of over 10,000 population shall be excluded from the right to buy. Rural land is thus defined as all land other than excluded land. Excluded land will include the foreshore adjacent to excluded settlements.

**We would welcome your views on the proposed population threshold.**

The boundaries of excluded land will be defined in maps produced by the General Register Office for Scotland (GROS). The most recent set is contained in their 5 February 2001 publication “Scottish Settlements - Urban and Rural Areas in Scotland”. Copies are available from GROS, Ladywell House, Ladywell Road, Edinburgh EH12 7TF, Tel: 0131 314 4243, at a cost of £10, or on their website at [www.gro-scotland.gov.uk](http://www.gro-scotland.gov.uk) under Geography. The draft order provides for more detailed maps to be made available for public inspection at various locations throughout Scotland. It is intended that the Order will be revised regularly to take account of revised population and settlement data, and a copy of the list of excluded settlements will be included in the schedule to the order when it is laid in Parliament.

The Ballot Regulations set out the procedure for holding ballots under section 52 of the Act. The ballot is held immediately after the land to which the community right to buy applies has been valued, and confirms that the community is in support of the proposal to buy the land. If the ballot is not conducted as prescribed in these regulations, the right to buy is extinguished.

The Compensation Regulations set out the procedure by which and the manner in which compensation may be claimed from Ministers for loss or expense incurred in the course of the operation of the right to buy provisions in Part 2 of the Act. Examples could include complying with requirements to respond to Ministers’ inquiries about proposed registrations under section 37, or where delays in selling result from the late applications procedure in section 39. Compensation may be claimed by anyone other than a community body.



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## Responses

We want to hear your views. Any comments which you wish to make on the attached draft regulations should be submitted to the Scottish Executive by **14 November 2003**. They should be sent to:

Colin Gray  
Land Reform Branch  
The Scottish Executive  
Pentland House  
Robb's Loan  
Edinburgh EH14 1TY

Phone: (0131) 244 4447  
Fax: (0131) 244 6259  
Email: [colin.gray2@scotland.gov.uk](mailto:colin.gray2@scotland.gov.uk)

## Next steps

Ministers and officials will consider carefully all responses received. These will help to finalise the necessary guidance and secondary legislation to be laid before the Scottish Parliament. Guidance will be publicly available prior to commencement.

It is hoped that commencement will be early in 2004. Just as many organisations and individuals throughout Scotland await the new legislation, so we are committed to ensuring that it can be implemented at the earliest possible date. But we also believe it is right to take the necessary time to fully consider responses to this consultation and ensure that the legislation best meets the needs of the people of Scotland.

## Confidentiality

Copies of all responses received will be placed in the Scottish Executive library and will be available to the general public. The views expressed by respondents may also be quoted or referred to in any future review of responses. If you do not wish your response to be made public, please ensure you indicate clearly that all or part of your response is to be treated as confidential. Confidentiality will be strictly respected. We still count confidential responses in any statistical analysis and your views will of course be taken into account in the same way as for non-confidential responses.

## Electronic publication and additional copies

This consultation material is available via the internet at: <http://www.scotland.gov.uk/views/views.asp>. Additional copies are available from Colin Gray, as detailed above.

**RICHARD S FREW**

Draft Order laid before the Scottish Parliament under section 33 of the Land Reform (Scotland) Act 2003, for approval by resolution of the Scottish Parliament.

## DRAFT SCOTTISH STATUTORY INSTRUMENTS

2003 No.

### COMMUNITY RIGHT TO BUY

The Community Right to Buy (Definition of Excluded Land) (Scotland)  
Order 2003

*Made* [ ] 2003

*Coming into force* [ ] 2003

The Scottish Ministers in exercise of the powers conferred by sections 33(2) and 98(5) of the Land Reform (Scotland) Act 2003<sup>(1)</sup>, hereby make the following Order:

#### Citation, commencement and interpretation

1.—(1) This Order may be cited as the Community Right to Buy (Definition of Excluded Land) (Scotland) Order 2003 and shall come into force on [ ] 2003.

(2) In this Order—

“the Act” means the Land Reform (Scotland) Act 2003;

“the GROS report” means the General Register Office for Scotland publication “Scottish Settlements – Urban and Rural Areas in Scotland (ISBN 1-874451-60) which was published by Her Majesty’s Stationery Office on 5th February 2001.

#### Excluded land

2.—(1) There is designated as excluded land for the purpose of section 33 of the Act, the land comprising the settlements listed in the Schedule to this Order, being settlements of over 10,000 people who are resident in the settlement areas defined in the GROS report.

(2) The boundaries of the settlements specified in the Schedule to this Order are the boundaries specified in the GROS report and delineated in red on the illustrative maps referred to in the GROS report.

(3) Foreshore which is adjacent to the settlements specified in the Schedule to this Order is excluded land for the purposes of section 33 of the Act.

(4) Definitive maps, to be known as “The Land Reform (Definition of Excluded Land) (Scotland) Order 2003: Definitive Maps”, will be made available for public inspection during opening hours, as displayed, at the following locations:

- The Scottish Executive Library, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD

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<sup>(1)</sup> 2003 asp.

- SEERAD, Pentland House, 47 Robb's Loan, Edinburgh, EH14 4TY  
(Tel: 0131 244 4447)
- The following Agricultural Area Offices:

[To be confirmed]

A member of the Scottish Executive

St Andrew's House,  
Edinburgh  
[Date]

SCHEDULE

## EXPLANATORY NOTE

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

This Order designates what is “excluded land” for the purposes of section 33 of the Land Reform (Scotland) Act 2003 (“the Act”).

Article 2 designates any settlement of more than 10,000 people as “excluded land” for the purposes of defining registrable land under the Act. Those settlements are listed in the Schedule to the Order as “excluded land”. The boundaries of those settlements are specified in the “GROS report “Scottish Settlements – Urban and Rural Land in Scotland”. The effect of a settlement being so designated is that a community body (as defined in section 34 of the Act) is not permitted to register an interest in any land comprising the settlement. Article 3 makes clear that foreshore which is adjacent to any settlement in the Schedule to the Order is excluded land.



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# DRAFT SCOTTISH STATUTORY INSTRUMENT

2003 No.

## COMMUNITY RIGHT TO BUY

The Community Right to Buy (Ballot) (Scotland) Regulations 2003

*Made* 2003

*Laid before the Scottish Parliament* 2003

*Coming into force* 2003

The Scottish Ministers in exercise of the powers conferred by sections 52(1) and 98(4) of the Land Reform (Scotland) Act 2003<sup>(2)</sup>, 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 (Ballot) (Scotland) Regulations 2003 and shall come into force on

(2) In these Regulations

“the Act” means the Land Reform (Scotland) Act 2003;

“community body” means a body of the type defined in section 34 of the Act.

### Conduct of Ballot

2. The ballot shall be a secret ballot and shall be conducted in a fair and reasonable manner.

3. The community body shall ascertain from the voters roll the number of eligible voters in the community as defined for the purposes of section 34(1)(a) of the Act.

4.—(1) Subject to regulation 5 below notice of the date and place on which the ballot will be held shall be given to all eligible voters, and there shall be a period of not less than 7 days from the date on which such intimation is made to the date on which the ballot is to be held.

(2) The notice referred to in paragraph (1) shall set forth the question on which the eligible voters shall vote.

5. If the community body wishes to hold a postal ballot each eligible voter shall be sent a ballot paper with the question on which the vote is to be taken and the date and time, being not less than 7 days from the date of posting, on which the paper must be returned. Each voter shall be provided with a stamped addressed envelope for returning the completed ballot paper.

### Proxy Votes

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<sup>(2)</sup> asp 2003 c. .

6. In the event of any eligible voter being unable for good cause to exercise his right to vote either at the ballot or in the postal ballot held by virtue of regulations 4 and 5 respectively the community body may permit a proxy to vote for that person.

### **Ballot results**

7-(1) Within 14 days of the holding of the ballot, or in the case of a postal ballot, within 14 days from the date specified for the return of the ballot papers, the community body shall publish in a newspaper circulating in the vicinity of the community-

- (a) the number of persons eligible to vote in the ballot;
- (b) the number of persons eligible to vote who voted; and
- (c) the number of votes cast for and against the proposition that the community body buy the land.

(2) Within 28 days of the date specified in section 52(4) of the Act the community body shall return to Scottish Ministers the form specified in the Schedule to these Regulations duly completed with the information specified in section 52(3) of the Act.

(3) Scottish Ministers may within a period of 7 days after the return of the ballot result request from the community body such additional information pertaining to the ballot as they may require, and the community body shall supply such information within a further period of 7 days from the date of the request being made.

### **Retention of Ballot papers**

8. The community body shall retain all completed voting papers for a period of [2 years] after the date of the ballot, and these papers shall be available, on request, for inspection by members of the community, Scottish Ministers or any other person with a right of appeal under sections 61 or 62 of the Act.

**LAND REFORM (SCOTLAND) ACT 2003  
BALLOT RETURN FORM**

1. [Name of community body]
2. [Registration number in Register of Community Interest in Land]
3. [Date of ballot]
4. [Result of vote]
5. [Number of persons eligible to vote]
6. [Number of eligible persons who voted]
7. [Number of eligible persons who voted in favour of buying the land proposed to be purchased]
8. [Name, address and telephone number of community body representative making the ballot return]

## EXPLANATORY NOTE

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

These Regulations set out the requirements on a community body which is holding a ballot under section 52 of the Land Reform (Scotland) Act 2003 on the question of whether to proceed with a land purchase.

Regulation 2 provides that there be a secret ballot and that it should be conducted in a fair and reasonable manner. Under regulation 3 the community body is required to ascertain from the voters roll who is eligible to vote in the ballot. Regulations 4 and 5 give the community body the option of holding an ordinary ballot or a postal ballot, and regulation 6 permits proxy votes in certain circumstances.

Regulation 7 requires the community body to publish the result of the ballot in a newspaper circulating in the vicinity, and also to notify Scottish Ministers of the result and the other information specified in the form set out in the Schedule to the Regulations. Scottish Ministers are also empowered to call for additional information pertaining to the ballot from the community body. Regulation 8 provides for the retention by the community body of the ballot papers for a period of 2 years and also permits Scottish Ministers and specified persons to inspect them.



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# DRAFT SCOTTISH STATUTORY INSTRUMENT

2003 No.

## COMMUNITY RIGHT TO BUY

The Community Right to Buy (Compensation) (Scotland) Regulations 2003

<i>Made</i>	2003
<i>Laid before the Scottish Parliament</i>	2003
<i>Coming into force</i>	2003

The Scottish Ministers in exercise of the powers conferred by sections 63(5) and 98(4) of the Land Reform (Scotland) Act 2003<sup>(3)</sup>, 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 (Compensation) (Scotland) Regulations 2003 and shall come into force on

(2) In these Regulations–

“the Act” means the Land Reform (Scotland) Act 2003;

“the claimant” means any of the persons specified in section 63(1) of the Act.

2. A claim for compensation made under section 63(1) of the Act shall be submitted to the Scottish Ministers within the time limit specified in regulation 3.

3.—(1) A claim made under paragraph (a) of section 63(1) of the Act shall be made within 28 days of the last act or event which occurred as a result of compliance with the procedural requirements of Part 2 of the Act and which gave rise to part or all of the claim.

(2) A claim made under paragraph (b) of section 63(1) of the Act shall be made within 28 days of–

(a) the date on which the community body gave notice under section 54 of the Act in compliance with an order of the Lands Tribunal under section 57 that it no longer wished to exercise its right to buy the land; or

(b) the date on which the Lands Tribunal made an order extinguishing the right to buy the land under section 57(2),

whichever is the later date.

(3) A claim made under paragraph (c) of section 63(1) of the Act shall be made within 28 days of the date on which Ministers determine that a community interest in land is to be registered in accordance with section 37.

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<sup>(3)</sup> asp 2003 c. .

(4) A claim made under paragraph (d) of section 63(1) of the Act shall be made within 28 days of the date of payment of the price in terms of section 56(3)(a) or (b).

(5) In the event of a claim for loss or expense being made under more than one of the preceding paragraphs, the period of 28 days shall run from the latest date specified in a paragraph which is relevant to the claim.

4. A claim for compensation may include all proper and reasonable expenses or losses incurred by the claimant under section 63(1), and such losses or expenses shall be fully vouched.

5. Scottish Ministers shall determine the amount of compensation payable, and shall inform the claimant of this amount within 40 days of submission of the claim.

A member of the Scottish Executive

St Andrew's House,  
Edinburgh  
[Date]

## EXPLANATORY NOTE

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

These Regulations provide for the procedure by and manner in which compensation for loss or expense may be claimed by any person (other than a community body) from the Scottish Ministers under section 63 of the Land Reform (Scotland) Act 2003 (“the Act”). Such compensation is payable where loss or expense has been incurred (a) in complying with the procedure or requirements of Part 2 of the Act, (b) as a result of failure by a community body to comply with an order of the Lands Tribunal under section 57 of the Act, (c) in complying with a prohibition imposed under section 37(5)(e) of the Act or (d) as a result of the operation of paragraph (a) or (b) of section 56(3) of the Act.

Regulation 2 provides that a claim for compensation must be made within the time limits set out in Regulation 3. Regulation 3 sets out varying time limits depending on which paragraph of section 63(1) of the Act the claim is made under. If the claim is made under more than one paragraph, Regulation 3(5) provides that the 28 day period runs from the latest date specified in a paragraph which is relevant to the claim. Regulation 4 specifies that the claim may include all proper and reasonable expenses or losses incurred, which require to be fully vouched, and Regulation 5 provides that Scottish Ministers shall determine the amount of compensation payable within a period of 40 days of submission of the claim.



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