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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2018 No.**

**The Community Right to Buy (Abandoned, Neglected or Detrimental Land) (Eligible Land, Regulators and Restrictions on Transfers and Dealing) (Scotland) Regulations 2018**

*Restrictions on dealings in section 97G land while application pending*

**Exceptions to regulation 12**

**13.**—(1) Subject to paragraph (2), regulation 12 does not prohibit the following dealings in section 97G land:—

- (a) a transfer otherwise than for value;
- (b) a transfer in implement or pursuance of an order of a court (other than an order under section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970(1) or a decree in an action for the division and sale of land);
- (c) a transfer between spouses or civil partners in pursuance of an arrangement between them entered into at any time—
  - (i) after they have ceased living together; and
  - (ii) before Ministers have received the application under section 97G of the Act;
- (d) a transfer between companies in the same group;
- (e) a transfer to a statutory undertaker for the purpose of carrying on their undertaking;
- (f) a transfer—
  - (i) implementing the compulsory acquisition of the land under an enactment;
  - (ii) by agreement, of land which could have been acquired compulsorily under an enactment;
  - (iii) implementing any right conferred by or under Part 2, 3 or 3A of the Act;
  - (iv) implementing missives for the sale and purchase of land, but only if, on the date that the missives were concluded, no application under section 97G of the Act was included in the register kept under section 52(1) of the Land Reform (Scotland) Act 2016 (register of applications by community bodies to buy land)(2);
  - (v) implementing an option to acquire land, but only if, on the date that the option was created, no application under section 97G of the Act was included in the register kept under section 52(1) of the Land Reform (Scotland) Act 2016;
  - (vi) vesting the land in a person for the purposes of any enactment relating to sequestration, bankruptcy, winding up or incapacity or to the purposes for which judicial factors may be appointed; or

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(1) 1970 c.35, amended by section 4(3) of the Mortgage Rights (Scotland) Act 2001 [asp 11](#), paragraph 1(4) of the schedule of the Homelessness etc. (Scotland) Act 2003 [asp 10](#), section 2 of the Home Owner and Debtor Protection (Scotland) Act 2010 [asp 6](#) and section 152(2) of the Housing (Scotland) Act 2010 [asp 17](#).

(2) 2016 [asp 18](#).

- (g) a transfer of land in consequence of—
  - (i) the assumption, resignation or death of one or more of the partners in a firm; or
  - (ii) the assumption, resignation or death of one or more of the trustees of a trust.
- (2) The exceptions mentioned in paragraph (1)(a), (d) and (g), do not apply if—
  - (a) the transfer—
    - (i) is, or forms part of, a scheme or arrangement; or
    - (ii) is one of a series of transactions; and
  - (b) the main purpose or effect, or one of the main purposes or effects, of the scheme, arrangement or series of transactions is to avoid the requirements or consequences of regulation 12.
- (3) In paragraph (1)(e), “statutory undertaker” is to be construed in accordance with section 214 of the Town and Country Planning (Scotland) Act 1997(meaning of statutory undertakers)**(3)**.

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**(3)** 1997 c.8, amended by S.I. 2001/1149 and paragraph 10 of schedule 5 of the Transport Act 2000 (c.38).