
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 140

**The Community Right to Buy (Abandoned, Neglected
or Detrimental Land) (Applications, Ballots and
Miscellaneous Provisions) (Scotland) Regulations 2018**

PART 3

Ballot for purpose of section 97J of the Act

Reimbursement of expense of conducting ballot

Application for reimbursement

12.—(1) A Part 3A community body may apply to Ministers for reimbursement of the expense of conducting a ballot in accordance with section 97J of the Act.

(2) An application under paragraph (1) must be made on or after the date that an application is made under section 97G of the Act and no later than the date as determined in accordance with paragraph (3) or (4) as the case may be.

(3) If the Part 3A community body is refused consent to exercise the right to buy land, the date is the earlier of—

- (a) the day after the expiry of the time period specified in section 97V(6) of the Act (appeals) for lodging an appeal against the decision on an application under section 97G of the Act, but only if no appeal is lodged within that period; or
- (b) the day on which the sheriff issues a decision in an appeal under section 97V of the Act, but only if the outcome of the appeal is that the Part 3A community body is refused consent to exercise the right to buy land.

(4) If the Part 3A community body is given consent to exercise the right to buy land, the date is the earliest of—

- (a) the expiry of the period specified in section 97P(1) of the Act (confirmation of intention to proceed with purchase and withdrawal), but only if the Part 3A community body did not, within that period, notify Ministers and the owner of the land of its intention to proceed to buy the land;
- (b) the date of notice of withdrawal of the application under section 97P(2)(a) of the Act;
- (c) the date of notice of withdrawal of the confirmation of intention to proceed under section 97P(2)(b) of the Act;
- (d) the date on which the Part 3A community body's application is treated as withdrawn under section 97R(5) of the Act (completion of transfer); or
- (e) the day on which the transfer of the land is completed under section 97R of the Act.

Information to be included in application for reimbursement

13.—(1) An application under regulation 12(1) for reimbursement of the expense of conducting a ballot must include the following information:—

- (a) the name of the Part 3A community body, as it appears on the body’s memorandum and articles of association, constitution or registered rules;
- (b) the Part 3A community body’s company number, charity number or registration number;
- (c) the Part 3A community body’s contact details, including a contact name, postal address, email address and telephone number;
- (d) the date on which the Part 3A community body made its application under section 97G of the Act;
- (e) the ballot deadline;
- (f) the question on which the vote was taken;
- (g) details of the Part 3A community body’s bank account into which the amount of any reimbursement is to be paid; and
- (h) a statement setting out all costs that were incurred in conducting the ballot in accordance with paragraph (2).

(2) For each cost the Part 3A community body must provide—

- (a) the date on which the cost was incurred;
- (b) a brief description of the goods or services to which the cost relates;
- (c) evidence that the cost was incurred in conducting the ballot; and
- (d) the date on which the goods or services to which the cost relates were provided.

(3) The Part 3A community body may include with its application any other information that it considers to be relevant.

Ministers may request further information before making decision

14.—(1) No later than the expiry of 30 days beginning with the date on which Ministers receive an application under regulation 12(1), Ministers may request from the Part 3A community body any further information that Ministers consider to be necessary for the purpose of making a decision under regulation 15.(1)

(2) The Part 3A community body must respond to a request under paragraph (1) no later than 7 days after the date on which the Part 3A community body receives it, by—

- (a) providing the requested information; or
- (b) explaining why the information cannot be provided.

Decision of Ministers on application for reimbursement

15.—(1) No later than the expiry of 60 days beginning with the date on which Ministers receive an application for reimbursement under regulation 12(1), Ministers must—(1)

- (a) calculate the amount to be reimbursed by—
 - (i) calculating the expense of conducting the ballot in accordance with paragraphs (2) and (3); and
 - (ii) subtracting from the total amount any expense that they consider would not have been reasonably incurred in the conduct of the ballot;
- (b) notify the Part 3A community body of the amount calculated under sub-paragraph (a) and the reasons for any decisions made in the course of making that calculation; and

- (c) pay to the Part 3A community body the amount calculated under sub-paragraph (a), if any amount is to be paid.
- (2) When calculating the expense of conducting the ballot, Ministers must disregard that portion of each expense identified in the application that they consider to be—
 - (a) directly attributable to activities other than those specified in regulation 6; or
 - (b) incurred retrospectively.
- (3) For the purpose of paragraph (2)(b), an expense is incurred retrospectively if it is incurred after the provision of the goods or services to which it relates, where those goods or services were initially provided on a no-cost basis.

Appeal against Ministers' decision under regulation 15

- 16.**—(1) A Part 3A community body has a right of appeal to the Lands Tribunal against a decision of Ministers under regulation 15.
- (2) Any appeal under paragraph (1) must be lodged within 28 days beginning with the date that the Part 3A community body receives notice of the decision.
 - (3) The Lands Tribunal may, after making its own assessment under regulation 15 of the amount, if any, to be reimbursed, make an order requiring Ministers to reimburse a specified amount of expense to a Part 3A community body.
 - (4) There is no right of appeal of a decision of the Lands Tribunal under this regulation.