EXECUTIVE NOTE

THE CROFTING COMMUNITY BODY (PRESCRIBED FORM OF APPLICATION AND NOTICE) (SCOTLAND) REGULATIONS 2009

SSI/2009/160

Introduction

1. The Regulations are made in exercise of the powers conferred by sections 73(5), 82(1) and 98(3) of the Land Reform (Scotland) Act 2003 ("the Act"). They prescribe the form of an application in relation to applications for consent to buy eligible croft land, etc, and in particular, the interest of the tenant in tenanted land, all in terms of Part 3 of the Act. They also prescribe the form of a Notice upon which Ministers' decision on such applications must be intimated. The Regulations revoke the Crofting Community Body Form of Application for Consent to Buy Croft Land etc and Notice of Ministers' Decision (Scotland) Regulations 2004 (S.S.I. 2004/224) ("the 2004 Regulations"). They are subject to negative Parliamentary procedure.

Policy objectives

2. Section 73(5) of the Act requires a crofting community body that wishes to exercise its right to buy to make an application in that regard on the prescribed form. Section 69A of the Act makes provision in relation to the purchase by a crofting community body of the interest of the tenant in tenanted land. The form of the application in which to apply for consent to buy eligible croft land, etc is currently prescribed in the 2004 Regulations (in Schedule 1), together with the Notice prescribed in terms of section 82(1) of the Act. Section 69A(2) provides that where a crofting community body wishes to purchase the interest of a tenant in tenanted land, they may apply to do so under section 73 of the Act. There is currently no form of application prescribed for the purposes of an application to buy the interest of a tenant in tenanted land under section 73 (as read with section 69A) of the Act.

3. The purpose of the Regulations is, principally, to prescribe the form of the application to be completed by crofting community bodies wishing to apply for consent to buy the interest of the tenant in tenanted land. The new application, which is specified in Schedule 1 to the Regulations, re-organises the questions in the existing application in Schedule 1 to the 2004 Regulations, and makes further minor changes in the interests of certainty for applicants. The new application enables the same f application to be used for both applications for consent to buy eligible croft land, etc and for consent to buy the interest of the tenant in tenanted land. It is expected, however, that crofting community bodies will apply for consent to purchase eligible croft land, etc, and the interest of the tenant in tenanted land at different points in time within a specified time frame.

4. The application specified in Schedule 1 to the Regulations asks for information which section 73(5) of the Act requires be provided by a crofting community body when making an application for consent to buy eligible croft land,

etc or to buy the interest of the tenant in tenanted land. As Ministers require largely the same information to come to a decision on both matters and both applications are subject to the same procedures under the Act, it is considered expedient to deal with both applications in the same form. All information provided in the application form is made available in the Register of Crofting Community Rights to Buy. Crofting community bodies are required to indicate which application they are making (ie, eligible croft land or interest of the tenant).

5. Regulation 3 of the Regulations introduces Schedule 2, which specifies the form of a Notice upon which Ministers inform crofting community bodies of their decision on whether to consent to an application to buy eligible croft land, etc, or the interest of the tenant in tenanted land. The Notice may be used both in relation to applications concerning eligible croft land, etc and the interest of the tenant in tenanted land.

Consultation

6. Detailed proposals for the 2004 Regulations were set out in a consultation which included draft Regulations, issued by the Scottish Executive on 16 December 2003. Since the 2004 Regulations came into force, no new policy concerns have been raised. We have not considered it necessary to undertake a further consultation exercise. Consultation was undertaken on the provisions of what now comprises section 69A of the Act (which enable crofting community bodies to acquire the interests of a tenant in tenanted land, and which provisions were introduced by the Crofting Reform etc Act 2007).

Financial effects

7. The Regulations have no financial effects on the Scottish Government, local government, business, or the voluntary sector. Crofting community bodies which will complete the application for consent to buy eligible croft land, etc or the interest of the tenant in tenanted land are from the voluntary sector. The need for a Regulatory Impact Assessment was considered but as the Regulations do not impose any additional burdens, in terms of additional materials to be submitted with an application for consent to buy croft land, etc, or financial costs, it was not considered necessary to undertake one.

Scottish Government
April 2009