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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 39**

**COMMUNITY EMPOWERMENT**

**The Participation Request (Procedure)  
(Scotland) Regulations 2017**

*Made* - - - - 21st February 2017  
*Laid before the Scottish  
Parliament* - - - - 23rd February 2017  
*Coming into force* - - 1st April 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 23, 24(7)(a) and (8)(b), 26(6) and 29(3) of the Community Empowerment (Scotland) Act 2015<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Participation Request (Procedure) (Scotland) Regulations 2017 and come into force on 1st April 2017.

**Interpretation**

2. In these Regulations—

“the Act” means the Community Empowerment (Scotland) Act 2015;

“community participation body” means the community participation body which made the participation request;

“contact address” has the meaning given in regulation 11;

“public service authority” means the public service authority to whom the participation request is made;

“validation date” in respect of a participation request is the date on which the participation request is taken to have been made in terms of regulation 5; and

“working day” means every day except—

- (a) Saturday and Sunday;
- (b) 25th and 26th December; and
- (c) 1st and 2nd January.

### **Form and content of participation requests**

3.—(1) A participation request must be made in writing in the form set out in the schedule, or a form substantially to the like effect, and is to be completed in accordance with the notes to the schedule.

(2) If the request is made by a community-controlled body, it must be accompanied by a copy of the constitution of the community participation body.

(3) If the request is made by a body or group which is not a community-controlled body, it must explain the basis on which the body or group, as the case may be, is a community participation body.

### **Acknowledgment of participation requests**

4.—(1) If, when making a participation request the community participation body does not provide all the items and information to be submitted to the public service authority in accordance with section 22(2) of the Act and regulation 3, the public service authority must send to the community participation body a notice identifying the items or information which the community participation body still requires to submit in order to comply with section 22(2) of the Act and regulation 3.

(2) When a public service authority is in receipt of the items and information to be provided under section 22(2) of the Act and regulation 3, the public service authority must send an acknowledgement of the participation request to the community participation body.

(3) The acknowledgement sent under paragraph (2) is to include—

- (a) the validation date for the participation request; and
- (b) an explanation of the period within which the public service authority must give notice to the community participation body of its decision on the participation request.

### **Validation date**

5. A participation request is taken to have been made on the date on which the last of the items or information required to be provided in connection with the participation request in accordance with section 22(2) of the Act and regulation 3 is received by the public service authority.

### **Section 22(6) request**

6.—(1) Where a participation request includes a request under section 22(6) of the Act that another public service authority (an “additional authority”) other than the public service authority to which the request is made participate in the outcome improvement process, the public service authority must as soon as practicable after the validation date—

- (a) notify every additional authority that a participation request including a request under section 22(6) of the Act has been made;
- (b) inform every additional authority of the validation date for the participation request; and
- (c) send a copy of the participation request and the items and information provided by the community participation body to the public service authority to every additional authority.

(2) Within 15 working days beginning with the date on which an additional authority is notified under paragraph (1), the additional authority must—

- (a) inform the public service authority and the community participation body whether or not the additional authority wishes to participate in the outcome improvement process, should the public service authority decide to agree to the participation request; and

- (b) if the additional authority does not wish to participate in the outcome improvement process, inform the public service authority and the community participation body of its reasons for reaching that view.

#### **Time for periods for decision**

- 7. The period prescribed for the purposes of section 24(7)(a) of the Act is—
  - (a) in the case of a participation request including a request under section 22(6) of the Act, the period of 45 working days beginning with the validation date; and
  - (b) in any other case, the period of 30 working days beginning with the validation date.

#### **Publication of the decision notice**

- 8. The public service authority must publish a copy of the decision notice on a website or by other electronic means.

#### **Information about an outcome improvement process**

- 9. The information to be published under section 26(6) of the Act is—
  - (a) the name of the community participation body and of any public service authority to be involved in the outcome improvement process;
  - (b) the outcome to which the outcome improvement process relates; and
  - (c) how the outcome improvement process is to operate.

#### **Information about modification of an outcome improvement process**

- 10. The information to be published under section 29(3) of the Act following modification of an outcome improvement process is—
  - (a) the name of the community participation body and of any public service authority involved in the modified outcome improvement process;
  - (b) the outcome to which the modified outcome improvement process relates;
  - (c) the outcome improvement process which has been modified;
  - (d) how that outcome improvement process has been modified; and
  - (e) how the modified outcome improvement process is to operate.

#### **Contact address**

11.—(1) In relation to a participation request, the “contact address” is the address (or addresses), including any address (or addresses) for the purposes of electronic communication within the meaning of regulation 12, to which the community participation body wishes any document relating to the participation request to be sent.

(2) The contact address is the address (or addresses) included in the participation request unless the community participation body subsequently expressly informs the public service authority of a change to the contact address.

#### **Electronic communication**

12.—(1) Where the criteria in paragraph (2) are met, any document required or authorised to be sent by these Regulations may be sent by electronic communication and any requirement in these Regulations that any document is to be in writing is fulfilled.

- (2) The criteria are—
- (a) the recipient agrees, or is deemed to have agreed under paragraph (3) or (6), to receive it electronically; and
  - (b) the document transmitted by the electronic communication is—
    - (i) capable of being accessed by the recipient;
    - (ii) legible in all material respects; and
    - (iii) sufficiently permanent to be used for subsequent reference.
- (3) Any person sending a document using electronic communication is to be taken to have agreed—
- (a) to the use of such communication for all purposes relating to the participation request which are capable of being carried out electronically; and
  - (b) that the address for the purpose of such communication is the address incorporated into, or otherwise logically associated with, that communication.
- (4) Deemed agreement under paragraph (3) subsists until that person gives notice to revoke the agreement.
- (5) Notice of withdrawal of consent to the use of electronic communication or of revocation of agreement under paragraph (4) takes effect on a date specified by the person in the notice, but not less than 5 working days beginning with the date on which the notice is given.
- (6) Where the contact address includes an address (or addresses) for the purposes of electronic communication (“electronic communication contact address”) the community participation body is taken to have agreed—
- (a) to the use of electronic communication for all purposes relating to the participation request which are capable of being carried out electronically; and
  - (b) that the address for the purposes of such communication is the electronic communication contact address.
- (7) Where any document is sent to the community participation body by electronic communication by virtue of this regulation, the address (or addresses) for the purpose of such communication—
- (a) where there is an electronic communication contact address, must be the electronic communication contact address; and
  - (b) may, in addition, be any address which the community participation body has agreed, or is deemed to have agreed under paragraph (3), may be used for the purpose of electronic communication.
- (8) In this regulation—
- “address” includes any number or address used for the purpose of the communication or storage;
  - “document” includes any notice, consent, decision, representation, statement, list, report, form, plan, certificate or other information or communication;
  - “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(2) (general interpretation);
  - “electronic communication contact address” has the meaning given in paragraph (6);
  - “legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and

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(2) 2000 c.7. Section 15 was amended by the Communications Act 2003 (c.21), schedule 17, paragraph 158.

“sent” includes submitted or given and cognate expressions are to be construed accordingly.

**Promotion of the use of participation requests**

**13.** A public service authority is to promote the use of participation requests by publishing on a website or by other electronic means (including by use of social media) information explaining how a participation request may be made to that authority.

St Andrew’s House,Edinburgh  
21st February 2017

*KEVIN STEWART*  
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 3

Form of participation request

***COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015  
PARTICIPATION REQUEST***

**1. Details of community participation body**

Name of community participation body: (Note 1)

Contact address (Note 2)

**2. Name of public service authority to which the request is being made:** (Note 3)

**3. Name of any other public service authority which the community participation body requests should participate in the outcome improvement process:** (Note 4)

**4. The outcome that community participation body want to improve:** (Note 5)

**5. The reasons why the community participation body should participate in an outcome improvement process:** (Note 6)

**6. Knowledge, expertise and experience the community participation body has in relation to the outcome:** (Note 7)

**7. How the outcome will be improved because of the involvement of the community participation body:** (Note 8)

**8. Is the community participation body a community-controlled body?**

**If the answer to this is “No” explain the basis on which the body making the participation request is a community participation body.**

**Notes**

1. Insert the name of the community participation body making the participation request.

2. Insert contact address(es) of that community participation body.

3. Insert the name of the public service authority to which the participation request is made.

4. Insert the name(s) of any other public service authority which the community participation requests should participate in the outcome improvement process

5. Specify an outcome that results from, or is contributed to by virtue of, the provision of a service provided to the public by or on behalf of the authority.

6. Set out the reasons why the community participation body believes it should participate in the outcome improvement process.

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## EXPLANATORY NOTE

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

These Regulations make provision in relation to how a participation request is to be made under Part 3 of the Community Empowerment (Scotland) Act 2015 (“the Act”). Regulation 3 sets out that an asset transfer request must be made in writing and in the form set out in the schedule and completed in accordance with the notes to the schedule. Regulation 4 provides for the acknowledgement of a participation request by the public service authority and the information to be included in such acknowledgement. Regulation 5 provides how the date on which the participation request is to be taken to have been made is established. Regulation 6 sets out the process to be followed where a participation request includes a request that another public service authority participates in the outcome improvement process. Regulation 7 sets out the period within which a public service authority is, unless otherwise agreed, to give notice of its decision on a participation request to the community participation body. Regulation 8 requires the public service authority to publish a copy of the decision notice and sets out how this is to be done. Regulations 9 and 10 specify the information to be published by the public service authority under section 26(6) and 29(3) of the Act respectively. Regulation 12 makes provision for the use of electronic communication and regulation 11 defines the term “contact address”. Regulation 13 requires a public service authority to promote the use of public participation requests and sets out how this is to be done.