

**Consultation on proposals
relating to secondary
legislation for Part 3 of the
Land Reform (Scotland) Act
2003 – the crofting community
right to buy as amended by
the Community Empowerment
(Scotland) Act 2015**

March 2016

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INTRODUCTION

This consultation seeks views on policy proposals for secondary legislation relating to the crofting community right to buy in Part 3 of the Land Reform (Scotland) Act 2003 which has been amended by Part 4 of the Community Empowerment (Scotland) Act 2015.

Part 3 of the 2003 Act

The crofting community right to buy in Part 3 of the Land Reform (Scotland) Act 2003 (the 2003 Act) creates a regime in which a crofting community body (CCB), representing an identified crofting community, may acquire eligible croft land (including salmon fishings, mineral rights (except mineral rights to oil, coal, gas, gold or silver)), associated with that crofting community, and sporting rights. A CCB may also acquire, at the same time, or within a specified period after it has purchased the eligible croft land, the interest of the tenant in tenanted land. This right can only be exercised by a properly constituted CCB and when its application to do so has the consent of a majority both of the crofting community and of the crofters within that crofting community, and is approved by the Scottish Ministers (Ministers).

When the community right to buy in Part 2 of the 2003 Act was being revised as part of the legislative proposals to be brought forward for the 2015 Act, Ministers decided that it was opportune to look at the provisions for the crofting community right to buy. Ministers also wanted to consider whether any of the proposals for change in Part 2 would help make the legislation easier to use for crofting community bodies, while ensuring that the legislation continued to strike a fair balance between the rights of landowners and crofting communities and all parties involved in the legislative process. These changes were brought forward in the Community Empowerment (Scotland) Act 2015 (the 2015 Act) which received Royal Assent on 24 July 2015.

The consultation sets out a range of proposals which will be brought forward in secondary legislation. This secondary legislation forms a key part of the legislative provisions of the crofting community right to buy, and which are split between primary and secondary legislation.

Any references in this consultation to the 2003 Act are references to it as amended by the 2015 Act.

Proposals

The proposals in this consultation paper set out policy proposals for the following matters which relate to powers which Ministers have available to them in secondary legislation:

- What is the form of the application forms to be used by a crofting community body in the exercise of its right to buy and what kind of information should accompany those forms?
- What should be the manner in which the public notice of the application should be given by Ministers?
- How should a crofting community body's ballot be conducted?

- What are the circumstances in which the CCB should be able to apply for the reimbursement of the cost of conducting the ballot, what should be the criteria applied by Ministers in making that reimbursement and what should be the administrative arrangements for making an application for costs, the calculation and award of these costs, as well as an appeal of the Ministers' decision?
- What should be the notice of the Ministers' decision on an application by a crofting community body for consent to buy croft land etc?
- What should be the procedures for claiming compensation under the crofting community right to buy provisions, and what amounts should be payable, and who should pay them?

Responding to this consultation

We are inviting responses to this consultation by Monday 20 June 2016.

Please respond to this consultation online at

<https://consult.scotland.gov.uk/community-land-team/right-to-buy>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the close date.

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) to:

Community Land Team
 Agriculture, Food and Rural Communities Directorate
 D Spur
 Saughton House
 Edinburgh
 EH11 3XD
 Or by email to: crtb@scotland.gsi.gov.uk

Handling your response

If you respond using Citizen Space, you will be automatically directed to the Respondent Information Form at the start of the questionnaire. This will let us know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public.

If you are unable to respond via Citizen Space, please complete and return the **Respondent Information Form** attached to the end of this document as this will ensure that we treat your response appropriately. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the Community Land Team at the address above.

Scottish Government consultation process

Consultation is an essential part the policy making process. It gives us the opportunity to get your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<http://ideas.scotland.gov.uk>)

After a consultation is closed we publish all responses where we have been given permission to do so.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Consultation on proposals relating to secondary legislation for Part 3 of the Land Reform (Scotland) Act 2003 – the crofting community right to buy as amended by the Community Empowerment (Scotland) Act 2015

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response.

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (anonymous)
- Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

DETAILED POLICY PROPOSALS

1. Application forms to be used by a crofting community body in the exercise of its right to buy

Background

1.1. Crofting community bodies can apply to Ministers to acquire eligible croft land, and eligible additional land and a number of rights associated with that land, including salmon fishings, mineral rights (except mineral rights to oil, coal, gas, gold, or silver, and sporting rights). They can also acquire the interest of the tenant in tenanted land. These different elements can be applied for at specific periods of time (the “relevant” period – section 69(3) of the Act).

1.2. A crofting community body is required to submit its application to exercise its crofting community right to buy to Ministers on a prescribed form (section 73(5) of the Act refers). This application form is also to be accompanied by information that is to be prescribed by Ministers.

Proposals

1.3. We are seeking your views on the form of the application forms to be used by a crofting community body in the exercise of its right to buy and what kind of information should accompany these forms.

1.4. We propose that there should be two application forms to enable a crofting community body to acquire the land, rights and interest of the tenant in tenanted land under the crofting community right to buy. These are:

(1) Application for consent to buy eligible croft land etc. This includes eligible croft land, salmon fishings and mineral rights, land which may be bought in addition to eligible croft land, additional land included at request of owner and leaseback of sporting interests.

(2) Application for consent to buy the interest of the tenant in tenanted land.

1.5. The proposed form of these two application forms is set out below.

1.6. The first of the forms is the “Application for consent to buy eligible croft land etc”.

Land Reform (Scotland) Act 2003
Part 3: Crofting Community Right to Buy
Application for consent to buy eligible croft land etc

This form can be completed:

- Electronically, or
- Manually using black or blue ink and in capital letters

Please mark an "X" in the box to indicate if you are also submitting with an application for consent to buy the interest of the tenant in tenanted land.

SECTION 1 — WHO IS APPLYING

1.1 Name of crofting community body ("CCB") applying for consent to buy croft land etc.

Crofting Community Body Name	
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SECTION 2 — DETAILS OF WHO IS APPLYING

2.1 Please supply the official registered or principal office of the CCB.

Postal Address:	
Town:	
County:	
Country:	
Postcode:	

2.2 Please supply the address the CCB wishes correspondence in relation to the crofting community right to buy process to be issued to.

Contact name:	
Postal Address:	
Town:	
County:	
Country:	
Postcode:	
Telephone:	
Email:	

2.3 Please mark an “X” in the relevant box to confirm the type of CCB and its official number.

<input type="checkbox"/>	Company Limited by Guarantee (CLBG) and its company number is:	<input type="text"/>
<input type="checkbox"/>	Scottish Incorporated Charitable Organisation (SCIO) and its charity number is:	<input type="text"/>
<input type="checkbox"/>	Community Benefit Society (BenCom) and its registration number is:	<input type="text"/>

This application must be accompanied by a copy of the CCB’s governing documents and evidence of its company, charity number or registration number.

<input type="checkbox"/>	Please mark an “X” confirming that such a copy and evidence accompanies this application.
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2.4 Please provide:

(a) Total number of members in your CCB.

(b) A breakdown of the total number of members of each different type(s) of membership in your CCB as stated in your governing document.

(c) The membership details (i.e. names, address and membership type) of the CCB's members.

SECTION 3 – THE COMMUNITY AND THE LAND AND RIGHTS TO BE ACQUIRED

3.1 Please show the crofting community in relation to the land for which consent to purchase is being sought. You should provide a suitable map or drawing which identifies those individual households of members of the crofting community resident in the township of the crofting community. The map or drawing should be to an appropriate scale and derived from an Ordnance Survey map. Please ensure that the maps or drawings are referenced accordingly.

3.2 Please confirm the number of map(s) or drawings being submitted to show the crofting community in relation to the land for which consent to purchase is sought.

3.3 Please explain why this crofting community is an appropriate crofting community in relation to the subjects set out in this application.

SECTION 4 — THE ELIGIBLE CROFT LAND ETC

4.1 The application must be accompanied by more or more map or drawings. The maps or drawings should show the location and boundaries of the land which is the subject of this application, or land to which the sporting interests relate.

Please provide a map(s) or drawing(s) showing the location and boundaries of the land or eligible sporting interests in respect of which the right to buy is to be exercised. Please provide a description of each map or drawing. Please ensure that all maps or drawings are referenced accordingly.

4.2 Please detail the number of maps or drawings enclosed.

4.3 Please provide a written description of the eligible croft land, eligible additional land or eligible sporting interests. This should include proposed boundaries and all rights and interests in the land which is the subject of this application. Please complete on a separate sheet if necessary, which should be referenced accordingly.

4.4 What is the estimated area of land?

4.5 What county is the land located in?

4.6 Please mark an "X" to indicate whether this is an application to acquire: (i) salmon fishings; (ii) mineral rights; (iii) eligible sporting interests.

YES

NO

(i) salmon fishings

(ii) mineral rights

(iii) eligible sporting interests.

If "Yes" to any of the above, please give a detailed description of the to which those rights relate and this application must be accompanied by a map or plan to a suitable scale which clearly shows all relevant features, exceptions and boundaries. The map or drawing should be clearly labelled, and referenced accordingly.

4.7 Please mark an "X" to indicate whether the eligible croft land, eligible additional land or eligible sporting interests for which consent to purchase in this application, includes any eligible additional land.

YES

NO

Not applicable

4.8 If this is an application which includes eligible additional land, please mark an "X" to indicate whether the owner of the eligible land requested that it be purchased.

YES

NO

Not applicable

If "Yes", please provide evidence of that request and reference that evidence accordingly.

4.9 Please mark an “X” to indicate whether the owner of eligible additional land has consented to its purchase.

YES **NO** **Not applicable**

If “Yes” please provide evidence of that consent and reference that evidence accordingly.

4.10 Please explain why you consider all of the land or eligible sporting interests constitutes eligible croft land, eligible additional land or eligible sporting interests (see section 69A(1) of the Act).

Please provide relevant evidence to support any explanation, which should be referenced accordingly.

4.11 Please explain why you believe that all of the land or these eligible sporting interests is owned by the landowner.

4.12 Please mark an “X” to indicate whether the eligible croft land, eligible additional land or any part of it, salmon fishings, mineral rights, or eligible sporting interests, which is the subject of this application was acquired previously through the exercise of a crofting community right to buy under the provisions of this Act.

YES **NO**

If “Yes” to the above, please provide details, including the date on which the purchase was completed (DD/MM/YY)

SECTION 5 — LAND OWNERSHIP & INTERESTS

5.1 Please provide the contact details of the owner(s) of the eligible croft land and eligible additional land which is the subject of this application.

Name of landowner:	
Contact name:	
Postal Address:	
Town:	
County:	
Country:	
Postcode:	
Company no., registration no. or charity no. (if applicable):	
E-mail:	

5.2 Details of the landowner's agent/representative, if applicable.

Contact Name:	
Postal Address:	
Town:	
County:	
Country:	
Postcode:	
E-mail:	

5.3 If there is more than one owner (eg. the land is held in joint or common ownership between a number of owners), then please provide the contact details of the other owner(s).

5.4 Please mark an “X” to indicate whether the person who owns the eligible croft land/eligible additional land also owns the salmon fishings on or contiguous with this land?

YES **NO** **NOT APPLICABLE**

5.5 Please mark an “X” to indicate whether the person who owns the eligible croft land/eligible additional land also owns the mineral rights associated with this land?

YES **NO** **NOT APPLICABLE**

If “No”, to 5.4 or 5.4, please provide the name of the owner of these rights, providing the name of the owner, contact name, postal address, town, country, postcode, company no. registered no, or charity number (if appropriate), and e-mail address.

5.6 Please list the names and addresses of all persons (e.g. any creditor in a standard security over the land or any part of it with a right to sell the land or any part of it) who are known to you to have legally enforceable rights and interests in the subjects of the application, in all or part, and detail what rights and interests they have.

5.7 Please confirm what checks were carried out; by whom; and when, to establish the ownership details of the land, and interest details of the land, and the tenant of the land.

5.8 Please state if you are aware if the owner(s) is prevented from:

(a) selling the land or rights which are included in this application; or

YES **NO**

(b) subject to any enforceable obligation (other than an obligation arising from any right mentioned in section 84(1) of the 2003 Act, or order of the Land Court, to sell them otherwise than to the CCB.

YES **NO**

If you have answered “Yes”, please provide relevant evidence to support your answer, which should be referenced accordingly.

SECTION 6 — CROFTING COMMUNITY SUPPORT

6.1 Please indicate which of the members of the crofting community are: (1) resident in the crofting township associated with the croft land which the crofting community has a right to buy under the crofting right to buy provisions, and who are entitled to vote in a local government election; or (2) tenants of crofts in the crofting township whose names are entered in the Crofting Register, or the Register of Crofts, as the tenants of such crofts; or (3) owner-occupier crofters of owner-occupied crofts in the crofting township whose names are entered in the Crofting Register as the owner-occupier crofters of such crofts; or are (4) [such other persons, or are persons falling within a class of such other persons, as may be prescribed].

If you complete your list on a separate sheet please ensure that it is referenced accordingly.

Please list the members (names and addresses) who are:

(1) resident in the crofting township associated with the croft land which the crofting community has a right to buy under the crofting right to buy provisions, and who are entitled to vote in a local government election;

(2) tenants of crofts in the crofting township whose names are entered in the Crofting Register, or the Register of Crofts, as the tenants of such crofts;

(3) owner-occupier crofters of owner-occupied crofts in the crofting township whose names are entered in the Crofting Register as the owner-occupier crofters of such crofts;

(4) [such other persons, or are persons falling within a class of such other persons, as may be prescribed].

SECTION 7 — BALLOT RESULT

7.1 Please mark an “X” in one box to confirm whether notification to the Scottish Ministers of the results of the ballot held under section 75 of the Act are enclosed with this application.

YES

NO

If you have answered “No”, please indicate when it was sent to Scottish Ministers.

Date sent (DD/MM/YY)

Note: An application under section 73 of the Act must be made within the period of 6 months starting on and including the date of the ballot.

SECTION 8 — PROPOSALS FOR THE LAND TO BE PURCHASED

8.1 Please state the proposed use, development and management of the land which is the subject of this application. Continue on a separate sheet if necessary, which should be referenced accordingly.

8.2 Please mark an “X” in one box to confirm whether you consider the proposed use, development or management of the land relating to this application will interfere with any sewers, pipes, lines, watercourses or other conduits and fences, dykes, ditches or other boundaries in or on the land.

YES **NO**

If “Yes”, please provide details

8.3 Please mark an “X” in one box to confirm whether you consider it is likely that the present owner of the eligible croft land/eligible additional land or any third party will require access over the land relating to this application to reach other property or the right to access services (e.g. water, electricity, drains).

YES **NO**

If "Yes", please provide details

8.4 Please mark an "X" in one box to confirm whether there is any other land owned by the owner of the eligible croft land/eligible additional land and any business on such land that may be affected if this application is granted.

YES

NO

If "Yes", please provide details

8.5 Please explain the extent to which the proposed use, development and management of each of the following to which this application relates, would consist of or support the sustainable development of the subjects of this application:

(i) the land

(ii) any salmon fishings, mineral rights or eligible sporting interests included in this application; and

(iii) any land or eligible sporting interests previously acquired by the crofting community body.

8.6 Please mark an “X” to indicate whether the amount of land being acquired is sufficient to support any salmon fishings to be exploited so as to support the development of the crofting community.

YES **NO** **Not applicable**

If “Yes”, please provide details of how that support is to be achieved
If “No”, please indicate why you consider your application should be approved

8.7 Please mark an “X” to indicate whether the amount of land being acquired is sufficient to support any mineral rights to be exploited so as to support the development of the crofting community.

YES **NO** **Not applicable**

If “Yes”, please provide details of how that support is to be achieved
If “No”, please indicate why you consider your application should be approved

8.8 Please mark an “X” to indicate whether the amount of land being acquired is sufficient to support any eligible sporting interests to be exploited so as to support the development of the crofting community.

YES

NO

Not applicable

If "Yes", please provide details of how that support is to be achieved
If "No", please indicate why you consider your application should be approved

SECTION 9 — PUBLIC INTEREST

9.1 Please provide an explanation as to why the CCB considers that it is in the public interest that the right to buy be exercised.

SECTION 10 — DECLARATION

- We the undersigned have been authorised by the crofting community body to provide the information in this form, the proposals detailed within it and any supporting documents.
- The crofting community body understands that, if it makes any inaccurate statements or provides inaccurate information (deliberate or accidental) at any stage during the crofting community right to buy process, or if it knowingly withholds any information, this could result in Scottish Ministers deciding not to consent to the application.
- The crofting community body has not altered or deleted the original wording of this form.
- The crofting community body understands that it requires each signatory (2 board members or charity trustees) to this form to provide his/her full names and address for the purposes of prevention and detection of fraud.
- The crofting community body confirms that it is still a crofting community body within the requirements of subsection (1) and (1A) or (1B) of section 71 of the Land Reform (Scotland) Act 2003.
- The crofting community body understands that this form and supporting documents may appear in the Register of Crofting Community Rights to Buy.
- We the undersigned have read and understand the terms of this declaration.

We, the undersigned on behalf of the crofting community body as noted at section 1, apply for consent to an application for consent to buy croft land etc under section 73 of the Land Reform (Scotland) Act 2003.

Name
Address
Date
Position
Signature

Name
Address
Date
Position
Signature

For more information and guidance on the crofting community right to buy (including where to post this form), please visit www.gov.scot and search for “crofting community right to buy”.

You can also email the completed form and associated documents to crtb@scotland.gov

1.7. The form below is the form of the “Application for consent to buy the interest of the tenant in tenanted land”.



Land Reform (Scotland) Act 2003
Part 3: Crofting Community Right to Buy
Application for consent to buy the interest of the tenant in
tenanted land (section 69A)

This form can be completed:

- **Electronically, or**
- **Manually using black or blue ink and in capital letters**

In order to make this application, you must have submitted one of the following applications. Please mark an “X” in the appropriate box to indicate what application you are also or have submitted to Ministers in respect of the crofting community right to buy provisions of the 2003 Act.

- also submitting an application for consent to buy eligible croft land etc
- has submitted to Ministers an application for consent to buy eligible croft land etc which they have not made a decision.
- has submitted an application if the conditions in 69A(4) of the 2003 Act have been met during the relevant period as defined in section 69A(5) of the Act.

SECTION 1 — WHO IS APPLYING

1.1 Name of crofting community body (“CCB”) applying for consent to buy the interest of the tenant in tenanted land

Crofting Community Body Name

SECTION 2 — DETAILS OF WHO IS APPLYING

2.1 Please supply the official registered or principal office of the CCB.

Postal Address:	
Town:	
County:	
Country:	
Postcode:	

2.2 Please supply the address the CCB wishes correspondence in relation to the crofting community right to buy process to be issued to.

Contact name:	
Postal Address:	
Town:	
County:	
Country:	
Postcode:	
Telephone:	
Email:	

2.3 Please mark an "X" in the relevant box to confirm the type of CCB and its official number.

<input type="checkbox"/>	Company Limited by Guarantee (CLBG)	
	and its company number is:	

<input type="checkbox"/>	Scottish Incorporated Charitable Organisation (SCIO)	
	and its charity number is:	

<input type="checkbox"/>	Community Benefit Company (BenCom) and its	
	registration number is:	

This application must be accompanied by a copy of the CCB's governing documents and evidence of its company number and charity number.

Please mark an "X" confirming that such a copy and evidence accompanies this application.

2.4 Please provide:

(a)	Total number of members in your CCB	<input type="checkbox"/>
(b)	A breakdown of the total number of members of each different type(s) of membership in your CCB as stated in your governing document.	
(c)	The membership details (i.e. names, address and membership type) of the CB's members.	

SECTION 3 — THE COMMUNITY AND THE TENANTED LAND

3.1 Please show the crofting community in relation to the tenanted land for which consent to purchase is being sought. You should provide a suitable map or drawing which identifies those individual households of members of the crofting community resident in the township of the crofting community. The map or drawing should be to an appropriate scale and be derived from an Ordnance Survey map. Please ensure that the maps or drawings are referenced accordingly.

3.2 Please confirm the number of map(s) or drawings being submitted to show the crofting community in relation to the tenanted land for which consent to purchase is sought.

3.3 Please explain why this crofting community is an appropriate crofting community in relation to the subjects set out in this application?

SECTION 4 — THE INTEREST OF THE TENANT IN TENANTED LAND

4.1 The application must be accompanied by one or more map(s) or drawing(s) which show the location and boundaries of the tenanted land in respect of which the right to buy is to be exercised. Please provide a description of each map or drawing. Please ensure that all maps or drawings are referenced accordingly.

4.2 Please detail the number of maps or drawings enclosed.

4.3 What is the estimated area of land covered by the interest of the tenant in tenanted land?

4.4 What county is the tenanted land located in?

4.5 Please provide a written description of the tenanted land. This should include proposed boundaries of the tenanted land which is the subject of this application. If you complete your written description on a separate sheet, you should reference it accordingly. Please complete on a separate sheet if necessary, which should be referenced accordingly.

4.6 Please explain why you consider the land in question is tenanted land (see section 69A(1) of the Act). You should provide relevant evidence to support any explanation, which should be referenced accordingly.

4.7 Please explain why you believe that the tenant has an interest in the land. Please provide relevant evidence to support any explanation, which should be referenced accordingly.

4.8 Please mark an “X” to indicate whether the eligible croft land, eligible additional land, salmon fishings on or contiguous with this land, mineral rights and eligible sporting interests was acquired previously through the exercise of a crofting community right to buy under the provisions of this Act.

YES **NO**

If “Yes” to the above, please state the date on which that purchase was completed (DD/MM/YY).

4.9 Please mark an “X” to indicate whether the tenants’ interest in the tenanted land has been acquired previously through the exercise of a crofting community right to buy under the provisions of this Act.

YES **NO**

If “Yes” to the above, please state the date on which that purchase was completed (DD/MM/YY).

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SECTION 5 — LAND OWNERSHIP & INTERESTS

5.1 Please provide the contact details of the tenant(s) of the tenanted land which is the subject of this application.

Name of tenant: Contact Name: Postal Address: Town: County: Country: Postcode: Company no., registered no. or charity no. (if applicable): Email:	
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5.2 Details of the agent/representative of the tenant, if applicable.

Contact Name: Postal Address: Town: County: Country: Postcode: E-mail:	
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5.3 If there is more than one tenant (e.g. the tenancy is in joint or multiple

ownership between a number of tenants), then please provide the contact details for the other tenant(s).

5.4 Please list the names and addresses of all persons (e.g. any creditor in a standard security over the land or any part of it with a right to sell the land or any part of it) who are known to you to have legally enforceable rights and interests in the subjects of the application, in all or part, and detail what rights and interests they have.

5.5 Please confirm what checks were carried out; by who; and when, to establish the details of the interest in the land, and the tenant of the land.

5.6 Please state if you are aware that the tenant of the tenanted land is prevented from:

(a) selling the interest of the tenanted land which is the subject of your application; or

YES **NO**

(b) subject to any enforceable obligation (other than an obligation arising from any right mentioned in section 84(1) of the 2003 Act, or order of the Land Court, to sell them otherwise than to the CCB.

YES **NO**

If you have answered “Yes”, please provide relevant evidence to support your answer, which should be referenced accordingly.

SECTION 6 — CROFTING COMMUNITY SUPPORT

6.1 Please indicate which of the members of the crofting community are: (1) resident in the crofting township associated with the croft land which the crofting community has a right to buy under the crofting right to buy provisions, and who are entitled to vote in a local government election; or (2) tenants of crofts in the crofting township whose names are entered in the Crofting Register, or the Register of Crofts, as the tenants of such crofts; or (3) owner-occupier crofters of owner-occupied crofts in the crofting township whose names are entered in the Crofting Register as the owner-occupier crofters of such crofts; or are (4) [such other persons, or are persons falling within a class of such other persons, as may be prescribed].

If you completed your list on a separate sheet, please ensure that it is referenced accordingly.

Please list the members (names and addresses) who are:

(1) resident in the crofting township associated with the croft land which the crofting community has a right to buy under the crofting right to buy provisions, and who are entitled to vote in a local government election;

(2) tenants of crofts in the crofting township whose names are entered in the Crofting Register, or the Register of Crofts, as the tenants of such crofts;

(3) owner-occupier crofters of owner-occupied crofts in the crofting township whose names are entered in the Crofting Register as the owner-occupier crofters of such crofts;

(4) [such other persons, or are persons falling within a class of such other persons, as may be prescribed].

SECTION 7 — BALLOT RESULT

7.1 Please mark an “X” in one box to confirm whether notification to the Scottish Ministers of the results of the ballot held under section 75 of the Act are enclosed with this application.

YES

NO

If you have answered “No”, please indicate when it was sent to Scottish Ministers.

Date sent (DD/MM/YY)

Note: (1) An application under section 73 of the Act must be made within the period of 6 months starting on and including the date of the ballot;

(2) an application by a crofting community body in terms of section 69A of the Act for consent to acquire the interest of the tenant in tenanted land, and which is submitted under section 73 of the Act, shall only be submitted during the relevant period (see section 69A(5) of the Act) and when the conditions in section 69A(4) are met.

SECTION 8 — PROPOSALS FOR THE TENANTED LAND

8.1 Please state the proposed use, development and management of the tenanted land which is the subject of this application. Please continue on a separate sheet if necessary, which should be referenced accordingly.

8.2 Please explain the extent to which the proposed use, development and management of the tenanted land to which this application relates would consist of or support the sustainable use or development of the subjects of this application.

8.3 Please mark an “X” to indicate whether you consider that the CCB has or is acquiring sufficient land to enable the interest of the tenant in tenanted land to be exploited so as to support the development of the crofting community body?

YES **NO** **NOT APPLICABLE**

If “Yes”, please provide details of how that support is to be achieved
If “No”, please indicate why your application should be approved

SECTION 9 — PUBLIC INTEREST

9.1 Please provide an explanation as to why the CCB considers that it is in the public interest that the right to buy is exercised.

SECTION 10 — DECLARATION

- We the undersigned have been authorised by the crofting community body to provide the information in this form, the proposals detailed within it and any supporting documents.
- The crofting community body understands that, if it makes any inaccurate statements or provides inaccurate information (deliberate or accidental) at any stage during the crofting community right to buy process, or if it knowingly withholds any information, this could result in Scottish Ministers deciding not to consent to the application.
- The crofting community body has not altered or deleted the original wording of this form.
- The crofting community body understands that it requires each signatory (2 board members or charity trustees) to this form to provide his/her full names and address for the purposes of prevention and detection of fraud.
- The crofting community body confirms that it is still a crofting community body within the requirements of subsection (1) and (1A) or (1B) of section 71 of the Land Reform (Scotland) Act 2003.
- The crofting community body understands that this form and supporting documents may appear in the Register of Crofting Community Rights to Buy.

- We the undersigned have read and understand the terms of this declaration.

We, the undersigned on behalf of the crofting community body as noted at section 1, apply for consent to an application for consent to buy the interest of the tenant in tenanted land under section 73 of the Land Reform (Scotland) Act 2003.

Name
Address
Date
Position
Signature

Name
Address
Date
Position
Signature

For more information and guidance on the crofting community right to buy (including where to post this form), please visit www.gov.scot and search for “crofting community right to buy”.

You can also email the completed form and associated documents to crtb@scotland.gov

Question 1: Are you content with the form and questions in the “Application for consent to buy eligible croft land etc”, as set out above?

Yes No

Please provide details.

Question 2: Are you content with the form and questions in the “Application for consent to buy the interest of the tenant in tenanted land”, as set out above?

Yes No

Please provide details.

2. What is the manner in which public notice is to be given to an application by crofting community body for consent to buy croft land etc

Background

2.1. After Ministers have received an application by a crofting community body for consent to buy croft land etc, they are required to give public notice of it and of the date by which views from persons under section 73(8) are to be received. In that notice, Ministers are also required to invite persons to provide views on writing on the application which are to be received by Ministers not later than 60 days after the publication of that notice (Section 73(10) refers).

2.2. The notice that Ministers issue is to be advertised in such manner as may be prescribed (section 73(11) refers).

Proposals

2.3. We are seeking your views on proposals on the manner in which that public notice is to be advertised.

2.4. We consider that the notice shall be advertised in any or all of the following:

- A newspaper circulating in the area where the land or other subjects of the application is located;
- The Edinburgh Gazette;
- The Scottish Government website.

Question 3: Are there any other manners in which public notice should be given to an application by a crofting community body for consent to buy croft land etc?

3. Crofting community right to buy ballot

3.1 Conduct of ballot

Background

3.1.1. As part of a crofting community right to buy application, a crofting community body is required to demonstrate to Ministers that it has the approval of its “crofting community” to its proposal to exercise its right to buy the eligible croft land etc. The way in which the ballot is to be conducted is set out in section 75 of the 2003 Act and in secondary legislation. The secondary legislation sets out how the ballot is to be conducted, and how the results of the ballot are to be published.

Proposals

3.1.2. We are seeking your views on the conduct of a crofting community body’s ballot.

3.1.3. We propose that the ballot of the crofting community should be undertaken in the following way:

- The ballot must be conducted as a secret postal ballot.
- The crofting community body must ascertain:
 - the persons eligible to vote in the ballot, being those persons being the members of the crofting community as defined for the purposes of section 71(1)(a), section 71(1A)(a) and section 71(1B)(1) of the 2003 Act, as appropriate; and
 - the eligible voters within the “crofting community” who are the tenants of crofts within the crofting township, owner-occupier crofters of owner occupied crofts in the crofting township and such other persons as may be prescribed by Ministers.
- The date and place on which the ballot will be held shall be notified in writing to all of the eligible voters. There shall be a period of not less than 10 days from the date on which that intimation is to be made to the date on which the ballot is to be held.
- That notification to each eligible voter must include a ballot paper with the question on which the vote is to be taken;
 - a description of the land and any salmon fishings or mineral rights to which that question pertains; and
 - the date and time, being no less than 10 days after the date of posting, by which the paper must be returned.
- The crofting community body must provide to each person eligible to vote a stamped addressed envelope for returning the completed ballot paper.

Question 4: Do you agree with the proposals that set out how the ballot should be conducted, as outlined above?

Yes No

Please explain your answer.

3.2 Proxy votes

Background

3.2.1. Proxy votes enable a person to delegate their voting power to another person to vote in their absence. It is a well-known part of election procedure.

Proposals

3.2.2. We are seeking your views on the process to make requests for proxy votes as part of a crofting community right to buy ballot.

3.2.3. We propose that a person eligible to vote in the ballot may make a request, in writing, to the crofting community body, to be permitted a proxy vote. We propose that a request for a proxy vote must be made in a certain way. We propose that a request must:

- (a) state the name and address of the person eligible to vote;
- (b) state the name and address of the person whom the person eligible to vote wishes to appoint as a proxy;
- (c) be signed by the person eligible to vote;
- (d) contain a statement confirming that the person who is eligible to vote has consulted the proxy and that the proxy is capable and willing of acting as proxy; and
- (e) be received by the crofting community body not later than 1700 hours on the day before the date on which the ballot paper must be returned.

3.2.4. The crofting community body must permit a proxy vote to a person who makes a valid request in accordance with each of (a) to (e).

Question 5: Do you agree with the process to make a request for a proxy vote, as outlined above?

Yes No

Please explain your answer.

3.3 Notification of ballot results

Background

3.3.1. The crofting community body which conducted the ballot, the crofting community, other interested parties, and Scottish Ministers, need to be informed of the result of the ballot of the crofting community. The way in which the ballot results are notified or returned to Ministers is set out in section 75(4) of the 2003 Act.

3.3.2. A crofting community body is required to return its ballot results to Scottish Ministers within a certain timescale. This is the date 21 days from the date of the ballot, or if the application to exercise the right to buy is made sooner, the date of the application.

3.3.3. The Act also sets out five matters that the crofting community body must address in its prescribed form of return (section 75(4) refers).

Proposals

3.3.4. We are seeking your views on the form of the return that the CCB must use to notify Ministers of the result of the ballot.

3.3.5. We propose that the following is the form of the return that the CCB must use to notify Ministers of the result of the ballot. We have set out the format of the form below.

Land Reform (Scotland) Act 2003: Part 3
Crofting Community Right to Buy
Form of ballot return – section 75(4)

1. What is the name of the crofting community body to which the ballot return relates?

2. What was the date by which the ballot papers had to be returned?

3. What was the result of the ballot (the number of votes cast for the proposition that the CCB buy the land, divided by the number of persons eligible to vote who voted in the ballot, expressed as a percentage, and the number of members of the crofting community who voted and who are tenants of crofts within the land which the crofting

community, within land over which the sporting interests which the CCB has applied to buy has voted in favour of the proposition that the CCB exercises its right to buy)?

4. How many persons were eligible to vote in the ballot?

5. How many of those eligible persons to vote are tenants of crofts within the land which the crofting community body proposes to buy?

6. How many persons voted?

7. How many proxy votes were cast?

8. How many votes were spoilt?

9. What was the number of votes cast in favour of the proposal to buy the land?

10. What was the number of the persons that voted in favour of the proposal to buy the land who were tenants?

11. What is the name, address, telephone number, and email of the crofting community body making the ballot return.

12. Signature of the person making the ballot return.

13. What is the date of the ballot return.

Question 6: Are you content with the format of the form for the ballot return, as outlined above?

Yes No

Please provide details.

Public notification of CCB's ballot return

3.3.6. As noted above, the 2003 Act sets out that Ministers can set out provisions for ascertaining and publishing of the number of persons eligible to vote in the ballot, the number who did vote and the numbers of valid votes respectively cast for and against the proposition in the ballot (Section 75(2) refers).

Proposals

3.3.7. We are seeking your views on the process that should be used by the crofting community body to make public the results of the ballot.

3.3.8. We propose that the crofting community body should make known to the crofting community and the wider community the ballot results not later than 14 days from the day specified for the return of the ballot papers. This should be made in a newspaper circulating in the vicinity of the community and should include the following information:

- (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.

Question 7: Are you content with the process that should be used to make public the results of the ballot, as outlined above?

Yes No

Please explain your answer.

3.4 Retention of ballot papers

Background

3.4.1. It is good practice to retain ballot papers after a ballot or election has taken place.

Proposals

3.4.2. We believe that a crofting community body should retain paperwork associated with the conduct with the ballot for a specified period time.

3.4.3. We are seeking your views on the categories of information that the crofting community body should be required to retain in connection with its ballot to ascertain community support to exercise its crofting community right to buy, and the timescale in which that information is to be retained.

3.4.4. We propose that the crofting community body must retain all of the following:

- All information provided to the crofting community as part of the ballot;
- All completed ballot papers from the ballot;
- Evidence of sending the ballot papers from the ballot;
- All requests for a proxy vote in relation to the ballot;
- A record of all proxy votes that were permitted in relation to the ballot.

3.4.5. We also propose that the crofting community body must keep all of these papers for a specified period of time. We believe that this should be a period of 2 years after the date by which the ballot papers must be received as part of the ballot.

Question 8: Are you content with the categories of information that the crofting community body must retain in connection with its ballot to ascertain community support to exercise its crofting community right to buy, and the timescale in which that information is to be retained?

Yes No

Please explain your answer.

3.5 Access to ballot papers

Background

3.5.1. Members of the crofting community, the landowner, or a party with an interest in the land to be purchased under the crofting community right to buy, may wish to gain access to the ballot papers after the ballot has been conducted. This may, for example, be as part of an appeal under the Act. Appeals are set out in section 91 of the Act.

Proposals

3.5.2. We are seeking your views on whether there should be a process set out to deal with requests to access any documentation relating to the ballot.

3.5.3. We propose that a process should be set out that will allow a crofting community body to deal with requests for any documentation relating to the ballot to support the exercise of its crofting community right to buy. We consider that this will also assist parties seeking to make a request.

3.5.4. It should be noted that there is a process available under the community right to buy (regulation 18(2) of The Community Right to Buy (Scotland) Regulations 2015).

3.5.5. We propose that within 28 days of a request being made to the crofting community body, that the body must make available any information, ballot papers, evidence, requests of records, as listed above, for inspection by Ministers, or any person with a right of appeal under section 91(2) of the Act.

Question 9: Do you agree that there should be a process to deal with requests for any documentation relating to the ballot?

Yes No

Please explain your answer.

Question 10: Do you agree with the process that has been set out above?

Yes No

Please explain your answer.

4. Reimbursement by Ministers of expenses relating to a ballot under the crofting community right to buy provisions

Background

A crofting community body undertakes its ballot of its “crofting community” to establish that application under the crofting community right to buy has the support of its crofting community.

There are usually costs associating with undertaking the ballot. These may relate to administrative costs, printing costs, costs of stationary, including envelopes, and postage of ballot papers.

Ministers have set out that they will, in certain circumstances, where an application is made to them, reimburse the cost of conducting the ballot under the crofting community right to buy provisions. Provision is made in sections 75(6) and (7) of the 2003 Act. Section 75(7) sets out provisions that can be included in the secondary legislation, through regulations.

Proposals

We are seeking your views on proposals relating to the reimbursement by Ministers of expenses relating to a ballot under the crofting community right to buy provisions.

4.1 Circumstances in which a crofting community body can make an application to Ministers for reimbursement of the expense of conducting a ballot under the crofting community right to buy provisions

Background

4.1.1. The 2003 Act provides that Ministers may make regulations which include provisions relating to the circumstances in which a crofting community body may make an application to seek reimbursement of the expense of conducting a ballot under the community right to buy provisions (section 75(7) refers).

Proposals

4.1.2. We consider that the circumstances in which a crofting community can make an application are:

- The ballot has been conducted as prescribed (section 75(2) and secondary legislation);
- The ballot is one that shows a result that the eligible voters indicated that they have voted in favour of the proposition that the crofting community body exercises its right to buy.
- The crofting community body’s application for consent to buy croft land etc has been considered by Ministers and Ministers have notified that decision to the relevant parties (section 82).

Question 11: Do you agree with the list of circumstances noted above?

Yes No

Please explain your answer.

Question 12: Are there any other circumstances that should be included in addition to those set out above?

4.2 Calculating the expense of conducting the ballot

Background

4.2.1. The 2003 Act provides that Ministers may make regulations which include provisions relating to the method to be applied by them in calculating the expense of the ballot (section 75(7)(b) refers).

Proposals

4.2.2. We would like to seek your views on how Ministers should calculate the expense of conducting the ballot.

4.2.3. Ministers need to ensure that they can account for how they spend public money and ensure good value for the money that they spend.

4.2.4. We would like to hear your views on whether the method should take account of all expenses that a crofting community body incurs in connection with the ballot, or whether it should only take account of certain costs relating to the ballot.

4.2.5. For example, we are considering whether the method to calculate the cost should take account of all expenses which relate to the management of the ballot, the cost of printing ballot papers (the paper with the ballot question and information sheets relating to the proposal for the land and other prescribed information), the cost of envelopes for posting the ballot papers; the postage of ballot papers to the eligible voters and return of the ballot papers.

Question 13: Should the method that Ministers use to calculate the costs take account of all the expenses that a crofting community body incurs in connection with the ballot ,or should it only take account of certain costs relating to the ballot?

Yes No

Please explain your answer.

4.3 The criteria to be applied by Ministers in deciding whether to make a reimbursement to the applicant crofting community body

Background

4.3.1. The 2003 Act provides that Ministers may make regulations which include provisions relating to the criteria to be applied by Ministers in deciding whether to make a reimbursement to the applicant (section 66(7)(c) refers).

Proposals

4.3.2. We consider that Ministers will need certain information in order that they can calculate expenses. We propose that this should be:

- a statement detailing all costs that were incurred in connection with the ballot, with each cost item being fully vouched.
- All documentation relation to the procurement of the ballot, including any estimates of costs for services to be procured.

4.3.3. Ministers could apply a number of criteria in deciding whether to make a reimbursement of costs relating to a ballot by a crofting community body. Should this be any or all of the following, or any other criteria:

- whether the costs are “reasonable”?
- whether costs should be less than a certain sum per head? what were the expenses that were necessary to carry out the ballot?

Question 14: What criteria should Ministers use when deciding whether to make a reimbursement of ballot costs to a crofting community body?

Please explain your answer.

4.4 The procedure to be followed in connection with the making of an application for reimbursement to Ministers

Background

4.4.1. The 2003 Act provides that Ministers may make regulations which include provisions relating to the procedure to be followed in connection with the making of (1) an application for reimbursement to Ministers; (2) an appeal against a decision made by Ministers in respect of an application for reimbursement (section 75(7)(d) refers).

Proposals

4.4.2. We consider that an application for the reimbursement of costs in relation to a ballot made under the crofting community right to buy provisions should be made in the following way:

- An application should be made by a crofting community body to Ministers within 90 days from the date of notification of their decision of an application under section 82;
- A claim for expenses shall be fully vouched;
- A claim for expenses shall also include all documentation relating to the purchase of services that were used in relation to the ballot, including any estimates of costs.

4.4.3. The application by a crofting community body for reimbursement of expenses shall also include the following information:

- (i) The name of the crofting community body and its company number, registration number and charity number;
- (ii) The names and addresses of the board members, charity trustees, or committee members and any treasurer of the CCB;
- (iii) Details of the expenses sought by the CCB;
- (iv) Details of the bank/building society etc account into which the expenses are to be paid.

4.4.4. An application for reimbursement of expenses shall be accompanied by the following document:

a statement signed by two board members, charity trustees or committee members of the CCB certifying the details given in the application and that the expenses are accurate.

4.4.5. Ministers will have 60 days from the date of receipt to issue their decision on an application for compensation for expenses of a ballot.

Question 15: Do you agree with the procedure to be followed when making an application to Ministers?

Yes No

Please explain your answer.

4.5 An appeal against a decision made by Ministers in respect of an application for reimbursement of the expense of conducting a ballot

Background

4.5.1. The 2003 Act provides that Ministers may make regulations which include provisions relating to making an appeal against a decision made by Ministers in respect of an application for reimbursement of the expense of conducting a ballot under the crofting community right to buy provisions (section 75(7)(d)(ii) refers). In addition, Ministers may also make regulations which set out the persons who may consider such an appeal and the powers of such persons. (section 75(7)(d)(ii), (e) and (f) refers).

Proposals

4.5.2. We consider that an appeal on a Ministers' decision on whether to make a reimbursement to the applicant crofting community body can be only be made by a crofting community body.

4.5.3. We consider that where the crofting community body applicant is dissatisfied with the decision on whether to make a reimbursement, then it may appeal, within 60 days from the date of the submission of the claim, to the Sheriff Court.

4.5.4. We consider that the sheriff court should have power to consider and review all information received by Ministers and by a crofting community body that has made an appeal relating to a Ministerial decision on an application to seek reimbursement of the expense of conducting a ballot under the crofting community right to buy. The court can decide whether or not to agree to reimburse the costs. The decision of the sheriff shall be final.

Question 16: Are there any changes that you would make to the appeal process, outlined above?

Yes **No**

Please explain your answer.

5. Notice of the Minister’s decision on an application by crofting community body for consent to buy croft land etc

Background

5.1. The 2003 Act sets out that Ministers are required to notify their decision on a crofting community body’s application to buy eligible croft land, eligible additional land, interests or the interest of the tenant in tenanted land, in a prescribed form (section 82 refers). This form is to include the reasons for the Ministers’ decision.

Proposals

5.2. We are seeking your views on the form of the prescribed form which sets out the Scottish Ministers’ decision on an application by a crofting community body for consent to buy croft land etc.

5.3. We propose that the information should be provided in the following statutory form:

Land Reform (Scotland) Act 2003: Part 3
Crofting Community Right to Buy
Notice under section 82

1. Name of crofting community body (CCB).

2. Description of eligible croft land, eligible additional land, eligible sporting interests or the interests of the tenant in tenanted land which are the subject of the application.

3. Decision on application and date from which it is effective (see Notes 1 to 5).

4. Any conditions attaching to consent if application is approved.

5. Reasons for decision.

Notes

1. Where the consideration for the transfer of the land or sporting interests, or the interest of the tenant in tenanted land remains unpaid after the date not later than which it is to be paid in accordance with section 87, the application shall be treated as being withdrawn.

2. A decision of the Scottish Ministers to consent to an application relating to land/tenanted land may be appealed by summary application to the Sheriff by the following persons-

- (a) any person who is a member of the crofting community defined in relation to the applicant crofting community in pursuance of section 71 of the Act;
- (b) the owner of or, as the case may be, person entitled to the subjects of the application;
- (c) any other person who has any interest in the land or eligible sporting interests giving rise to a right which is legally enforceable by that person; and
- (d) any other person whom the Scottish Ministers invited to send views considered to have an interest in the application under section 73(8)(a) of the Act.

3. A decision of the Scottish Ministers to refuse an application may be appealed by summary application to the Sheriff by the applicant crofting community body.

4. A decision of the Scottish Ministers to consent to an application has the following consequences-

- (a) the Scottish Ministers must within 7 days appoint a valuer of the land, or sporting interests, or the interest of the tenant in tenanted land, to which the application relates and to be acquired;

(b) the owner of the croft land/tenanted land is required to make available to the crofting community body the title deeds of the land to be acquired/lease relating to the tenanted land within 6 weeks of the consent by the Scottish Ministers;

(c) in the event that the application relating to land proposed that there could be a leaseback of the eligible sporting interests to the owner, the current owner has notified the Scottish Ministers that he wishes to lease back and the Scottish Ministers have not been provided with a copy of an agreement on the terms and conditions of the lease then, within 7 days, the Scottish Ministers will refer the question of what terms and conditions are appropriate to the Land Court so that the Court may determine these terms and conditions;

(d) any rights of pre-emption, redemption or reversion or deriving from any option to purchase are suspended as from the date of the Scottish Ministers' approval and are revived either when the transfer of the land is completed, or if such a transfer is not completed, because the crofting community body does not proceed with the purchase.

5. A copy of the Scottish Ministers' decision-

(a) must be lodged in the Register of Crofting Community Rights to Buy to be held by the Crofting Commission and will be available for public inspection;

(b) must be sent to-

(i) the owner of the land, or as the case may be, the person entitled to the eligible sporting interests, or the tenant to which the application relates;

(ii) every other person whom Ministers invited to give views on the application;

(iii) in the case of a decision to consent to the application, to the Keeper of the Registers of Scotland.

Question 17: Are you content with the format of the above?

Yes **No**

Please explain your answer.

6. Compensation

Background

Section 89 sets out the provisions for the payment of compensation to anyone who has incurred losses or expenses as a result of an application to exercise the crofting community right to buy. These persons can be any person including an owner or former owner or person entitled to sporting interests. The section provides that the compensation will be payable by the crofting community body except where Ministers have refused the application, in which case the compensation will be paid by Ministers.

Section 89(4) has been amended by the 2015 Act. It gives Ministers the power to set out the procedure under which claims for compensation are payable in relation to an application to purchase land may be made. Ministers also have the power to make an order to specify the amounts payable in respect of loss or expense incurred by a landowner, person entitled to sporting interests or tenant, and also amounts payable in respect of loss or expense incurred by other persons who may be liable to pay those amounts and who those other persons are, as well as the procedure under which these claims for compensation are to be made.

Proposals

We are seeking your views on the procedures that should be set out for the making of claims for compensation in relation to an application to purchase land, and for other matters relating to the payment of compensation.

6.1 Procedures for applying for compensation

A claim for compensation under section 89(1) to be paid by the crofting community body

6.1.1. We propose that a claim for compensation under section 89(1)(a), (b), or (c) of the Act shall be submitted to the crofting community body which is liable to pay the compensation at its registered office or principal office.

6.1.2. A claim shall be submitted within a specific timescale. This is to be within 90 days of one of the following, whichever of the three dates is the earliest:

- (a) the final settlement date defined in section 87(2), or such later date that settlement of the purchase is made in terms of section 87(3) or (4);
- (b) the date of withdrawal by the crofting community body of its confirmation of its intention to proceed with the purchase under section 85; or
- (c) the date on which the crofting community body's application is treated as withdrawn under section 87(5).

6.1.3. The claim for compensation shall be set out in a specific way. The claim shall include a statement which details whether the loss or expense falls within paragraph (a), (b), or (c) of section 89(1). In addition, all losses and expenses set out in the claim shall be fully vouched.

6.1.4. Where the claimant and the crofting community body, whichever is the case, has been unable to agree the amount of compensation within 60 days from the date when the claim was submitted, then either party may apply to the Land Court to decide the amount of compensation payable in terms of section 89(5) of the Act.

A claim for compensation under section 89(3) to be paid for by Ministers

6.1.5. A claim for compensation under section 89(3) shall be submitted to Ministers within a specific timescale. This is to be within 90 days of notification under section 82 of the refusal of Ministers to grant the crofting community body's application.

6.1.6. The claim for compensation shall be set out in a specific way. The claim shall include a statement which details whether the loss or expense falls within paragraph (a), (b), or (c) of section 89(1). In addition, all losses and expenses set out in the claim shall be fully vouched.

6.1.7. Where the claimant and Ministers, whichever is the case, has been unable to agree the amount of compensation within 60 days from the date when the claim was submitted, then either party may apply to the Land Court to decide the amount of compensation payable in terms of section 89(5) of the Act.

6.2 Amounts payable in respect of loss or expense incurred as mentioned in section 89(1) of the Act

Background

6.2.1. Section 89(4)(a) provides that Ministers may specify amounts payable in respect of loss or expense incurred by a landowner, person entitled to sporting interests or tenant, in respect of section 89(1) of the Act.

Proposals

6.2.2. We would like to hear your views on the amounts that should be payable in respect of (1) loss or (2) expense in section 89(1). Should there be limits placed on the payment of specific items that come under these two headings? What should these be? What amounts should be set out by Ministers?

Question 18: What amounts should be payable as compensation in respect of loss or expense incurred by a landowner, persons entitled to sporting interests or the tenant (as mentioned in section 89(1) of the Act)?

6.3 Amounts payable in respect of loss or expense incurred by a person of such other description as may be specified

Background

6.3.1. Section 89(4)(b) provides that Ministers may specify amounts payable in respect of loss or expense incurred by the crofting community right to buy by a person of such other description as may be specified.

Proposals

6.3.2. We would like to hear your views on the amounts that are payable in respect of (1) loss or (2) payable by certain persons who may be specified by Ministers? Who should these persons be? Should there be limits placed on the payment of specific items that come under these two headings? What should these be? What amounts should be set out by Ministers?

Question 19: Who (what persons) should be specified by Ministers in relation to the above?

Question 20: What amounts should be payable as compensation in respect of loss or expense by these persons (in section 89(4)(b) of the Act)?

6.4 Application for a grant towards compensation liability: application form

Background

6.4.1. Ministers may, in certain limited circumstances, pay a grant to a crofting community body to assist it in meeting its liabilities to pay compensation with its exercise of the crofting community right to buy (section 90). If a crofting community body wishes to apply for a grant it must do so on a form and in accordance with procedures that are prescribed by Ministers (section 90(4) refers). The Ministers' decision on an application made under this section is final (section 90(8)).

Proposals

6.4.2. We are seeking your views on the application procedure and the form of the application for grants towards crofting community bodies' liabilities to pay compensation.

Procedure to apply for a grant

Proposals

6.4.3. We propose that an application for a grant towards crofting community bodies' liabilities to pay compensation should be through be made through the following procedure:

- An application, made on the statutory form, should be submitted to Scottish Ministers within 90 days of either (1) or (2), whichever date is the earlier:
 - (1) the date on which the crofting community body and the claimant agreed the amount of compensation payable; or
 - (2) the date on which the Land Court determined under section 89(5) of the Act the amount of compensation payable, whatever date is the earlier.
- Ministers will acknowledge receipt of the application within 7 days of receipt.
- Ministers will issue their decision on the application for the grant within 21 days of the date of its receipt.

Question 21: Are there any changes you would make to the application process outlined above?

Please explain your answer.

6.4.4. We have set out the form of application and the application procedure for crofting community bodies seeking a grant towards their liabilities to pay compensation, below.

Land Reform (Scotland) Act 2003
Part 3: Crofting Community Right to Buy
Application for a grant towards a crofting community body's
liabilities to pay compensation

This form can be completed:

- Electronically, or
- Manually using black or blue ink and in capital letters

SECTION 1 — WHO IS APPLYING

1.1 Name of crofting community body ("CCB") applying for a grant towards a community body's liabilities to pay compensation.

Crofting Community Body Name

SECTION 2 — DETAILS OF WHO IS APPLYING

2.1 Please supply the official registered or principal office of the CCB.

Postal Address:

Town:

County:

Country:

Postcode:

2.2 Please supply the address the CCB wishes correspondence in relation to this grant to be issued to.

Contact name:	
Postal Address:	
Town:	
County:	
Country:	
Postcode:	
Telephone:	
Email:	

2.3 Please mark an “X” in the relevant box to confirm the type of CB and its official number.

<input type="checkbox"/>	Company Limited by Guarantee (CLBG)	
	and its company number is:	
<input type="checkbox"/>	Scottish Incorporated Charitable Organisation (SCIO)	
	and its charity number is:	
<input type="checkbox"/>	Community Benefit Society (BenCom) and its	
	registration number is:	

2.4 Please provide a list of the names and addresses of each of the board members, trustees or committee members in the CCB. You should also state whether they have any special positions (eg. Chair, Treasurer). You should identify the Treasurer.

--

2.5 Please provide a copy of the last financial statement of your CCB. This financial statement should be prepared by a professional accountant certifying details of the finances of the CCB and signed by that accountant and the Treasurer of the CCB. You should ensure that it is referenced accordingly.

Please confirm the name of the attachment for your signed financial return.

2.6 Please provide a copy of the most recent bank or building society statement, as applicable, of the CCB. You should ensure that it is signed by the Treasurer of the CCB. You should ensure that it is referenced accordingly.
Please confirm the name of the attachment for the signed financial return.

SECTION 3 — DETAILS OF APPLICATIONS UNDER SECTION 73

3.1 Please state the date on which an application made by the CCB under section 73 of the Act was approved by Scottish Ministers (DD/MM/YY).

3.2 Please state the date on which the CCB acquired the eligible croft land, eligible additional land, salmon fishings on or contiguous with this land, mineral rights, and eligible sporting interests through the exercise of a crofting community right to buy under the provisions of this Act (DD/MM/YY).

3.3 If the purchase was not concluded by the CCB, please explain the reasons for this.

SECTION 4 —COMPENSATION BEING SOUGHT FROM THE CROFTING COMMUNITY BODY

4.1 Please supply the names and addresses of the person(s) (claimants) that have sought compensation from the CCB. If there is an insufficient number of boxes, you should supply the names and addresses of any further persons on additional sheet(s), referencing them appropriately.

Contact name:	
Postal Address:	
Town:	
County:	
Country:	
Postcode:	
Telephone:	
Email:	

Contact name:	
Postal Address:	
Town:	
County:	
Country:	
Postcode:	
Telephone:	
Email:	

Number of additional claimants who are seeking compensation in addition to those listed in the two boxes above. Please confirm the number of additional claimants which are included on separate sheets, which should be referenced accordingly.

4.2 Please provide details of the compensation being sought from the CCB by the claimants. If you have a number of claimants, you should provide details for each one. For each claimant you should set out the full sum claimed, and provide a breakdown of that claim, setting out whether the loss of expense falls which is being claimed for within paragraph (a), (b), or (c) of section 89(1) of the Act. Please continue on a separate sheet if required, ensuring that it is referenced accordingly.

4.3 Please attach copies of all correspondence between the CCB and each of the claimants that sought compensation.

Please list the correspondence that has been enclosed by the CCB, which should be referenced accordingly.

SECTION 5 —COMPENSATION BEING SOUGHT BY THE CROFTING COMMUNITY BODY

5.1 Please state the total amount of grant being sought by the CCB.

5.2 Please explain how this sum has been calculated by the CCB. You should provide a breakdown of the compensation that has been agreed with each of the claimant(s), also setting out each item that has been agreed, and whether the loss of expense falls within paragraph (a), (b), or (c) of section 89(1). Please continue on a separate sheet if required, ensuring that it is referenced accordingly.

5.3 Please give details of the account into which any grant is to be paid.

5.4 Please explain what other attempts the CCB has made to try to raise and secure funding to pay the compensation. Please continue on a separate sheet if required, ensuring that it is referenced accordingly. Any attachments in support of your explanation should be referenced accordingly.

SECTION 6 — DECLARATION

There are two declarations to be signed by the CCB in relation to this application for a grant towards a crofting community's liabilities to pay compensation. The CCB should sign and date each declaration.

(1) Declaration on the use of the grant

We, a board member, trustee or charity member of the CCB, named in section 1, undertake that the grant provided by Scottish Ministers, which has been granted in relation to this application, will be used only in respect of compensation sought under section 89(1).

We, the undersigned director or charity trustee of the CCB, named in section 1 of this form, undertake that the grant provided by Scottish Ministers, which has been granted in relation to this application, will be used only in respect of compensation sought under section 89(1) of the Land Reform (Scotland) Act 2003.

Name
Address
Date
Position
Signature

Name
Address
Date
Position
Signature

(2) General declaration

- We the undersigned have been authorised by the crofting community body to provide the information in this form, the proposals detailed within it and any supporting documents.
- The crofting community body understands that, if it makes any inaccurate statements or provides inaccurate information (deliberate or accidental) at any stage during the crofting community right to buy process, or if it knowingly withholds any information, this could affect the grant that is awarded by Scottish Ministers.
- The crofting community body has not altered or deleted the original wording of this form.
- The crofting community body understands that it requires each signatory (2 board members or charity trustees) to this form to provide his/her full names and address for the purposes of prevention and detection of fraud.
- The crofting community body confirms that it is still a crofting community body within the requirements of subsection (1) and (1A) or (1B) of section 71 of the Land Reform (Scotland) Act 2003.
- We the undersigned have read and understand the terms of this declaration.

We, the undersigned on behalf of the crofting community body as noted at section 1, apply for a grant towards a crofting community body's liabilities top pay compensation under section 90 of the Land Reform (Scotland) Act 2003.

Name
Address
Date
Position
Signature

Name
Address
Date
Position
Signature

For more information and guidance on the crofting community right to buy (including where to post this form), please visit www.gov.scot and search for "crofting community right to buy".

You can also email the completed form and associated documents to crtb@scotland.gov

Question 22: Do you agree with the form of the application form for a grant towards a crofting community body's liabilities to pay compensation, set out above?

Yes No

Please explain your answer.



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