

Part 2 of the Land Reform (Scotland) Act 2003

COMMUNITY RIGHT TO BUY



CÒIR COIMHEARSNACHD AIR CEANNACHD
GUIDANCE FOR APPLICATIONS
MADE ON OR AFTER
15 APRIL 2016

STIÙIREADH AIRSON
TAGRAIDHEAN AIR NEO ÀS DÈIDH
15 GIBLEAN 2016

MARCH 2016



The Scottish
Government
Riaghaltas na h-Alba

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INTRODUCTION



Use of this guidance

1. The community right to buy in Part 2 of the Land Reform (Scotland) Act 2003 (“the 2003 Act” or the “Act”) has been amended by Part 4 of the Community Empowerment (Scotland) Act 2015 (“the 2015 Act”).
2. This guidance **applies to all new** applications to register an interest in land received by Scottish Ministers **on or after 15 April 2016**.
3. Applications made under the 2003 Act **before 15 April 2016** must use the legislative provisions set out in Part 2 of the Land Reform (Scotland) Act 2003 as they were prior to amendment by Part 4 of the 2015 Act. Applicants should also refer to the community right to buy guidance, dated June 2009. It can be accessed by using the following electronic link: <http://www.gov.scot/Publications/2009/06/08101427/0>.

Community right to buy

4. The community right to buy provides the opportunity for community bodies (CBs) representing communities across Scotland to register an interest in land or rights (hereinafter referred to as land) and buy that registered land once it is offered for sale. It provides CBs with a pre-emptive right to buy the land in which they have registered a community interest. To date, CBs have registered interests in land including fields, woodlands, and a range of other assets such as buildings, for example churches, a school, and a community centre. The Act also allows CBs to register an interest in salmon fishings and mineral rights (except mineral rights to oil, coal, gas, gold or silver) which are owned separately from the land with which they are associated.
5. Applications to register an interest in land are normally made before the owner takes steps to offer the land for sale (a “timeous application”). They can also be made after the owner has taken steps to offer the land for sale or has taken steps to transfer the land (a “late application”), though late applications are expected to be submitted only in **exceptional circumstances**. In such cases, CBs have to meet additional criteria for their application to be approved by Scottish Ministers (Ministers).



6. The right to buy requires a willing seller: it does not involve a compulsory purchase of land registered under the Act. CBs may wait some time for an owner to decide that they want to sell the land. A registration lasts for five years unless a CB informs Ministers that its registered interest should be deleted, or it refuses the opportunity to exercise its right to buy or changes have taken place that would lead Ministers to delete its registration. CBs have the opportunity to apply to re-register a current registration for a further period of five years.

7. The community right to buy process must be exercised in accordance with Part 2 of the Act. The Act, its explanatory notes, and secondary legislation can be accessed via the following electronic links:

<http://www.legislation.gov.uk/asp/2003/2/contents> (2003 Act)

<http://www.legislation.gov.uk/asp/2003/2/notes/contents> (explanatory notes)

<http://www.legislation.gov.uk/asp/2015/6/contents> (2015 Act)

<http://www.legislation.gov.uk/asp/2015/6/notes/contents> (explanatory notes)

<http://www.legislation.gov.uk/ssi/2015/400/contents/made?regulation-5-d> (2015 Regulations)

<http://www.legislation.gov.uk/ssi/2016/4/contents/made> (2016 Regulations)

<http://www.legislation.gov.uk/sdsi/2016/9780111030059/contents> (2016 Order).

Purpose of this guidance

8. This guidance is intended to assist communities interested in acquiring land under the community right to buy provisions in Part 2 of the Act, as well as landowners/creditors in a standard security with the right to sell the land, and third parties who might be affected by a registered interest in their land or a CB's application to exercise a right to buy, as well as individuals or businesses who think that their interest in a particular area of land may be affected by such an application. The guidance is written in three parts:

- the first part provides guidance specifically for CBs;
- the second part provides guidance specifically for landowners and creditors in a standard security with the right to sell land; and
- the third part is specifically for parties with an interest in the land to be registered under the Act.

There are also additional Annexes which provide further information for each of the three parts.

9. This guidance covers the statutory requirements of Part 2 of the 2003 Act (as amended by the 2015 Act) and associated subordinate legislation in the Community Right to Buy (Scotland) Regulations 2015 (“the 2015 Regulations”), the Community Empowerment (Scotland) Act 2015 (Consequential Modifications and Savings) Order 2016 (the “2016 Order”), and the Community Right to Buy (Scotland) Amendment Regulations 2016 (the “2016 Regulations”). References to the Act are included to direct the reader to relevant sections should they wish to read the legislation alongside this guidance.

10. This guidance cannot take the place of independent professional advice. Any group within a community wishing to create a CB for the purpose of exercising the community right to buy should obtain appropriate advice. Any landowner or other person with an interest in land who considers that an application made under the community right to buy legislation may affect their land or interest is also recommended to seek such advice. Such professional involvement may include legal advice as well as advice on valuation, environmental and land management issues.

11. The Scottish Government’s Community Land Team is happy to assist with any questions you may have about the community right to buy process. It cannot, however, provide legal advice nor, due to the impartiality required in advising Ministers on a case-by-case basis, advice that would be seen as supporting a particular group (e.g. a CB, a landowner or any third party) involved in a specific case.

12. This guidance is subject to review from time to time. If you are unsure whether you have the latest version available, or if you have any comments on the guidance itself, please contact the Community Land Team. Contact details are noted in Annex B.



RO-RÀDH

1. Chaidh còir-cheannaich coimhearsnachd ann am Pàirt 2 de dh'Achd Ath-leasachaidh an Fhearainn (Alba) 2003 (“Achd 2003” neo “an Achd”) atharrachadh ann am Pàirt 4 de dh'Achd Cumhachdachadh Coimhearsnachd (Alba) 2015 (“Achd 2015”).
2. Tha an stiùireadh seo a’ **buineadh dha tagraidhean sam bith** airson ùidh a chlàradh ann am fearann a gheibh Ministearan na h-Alba **air neo às dèidh 15 Giblean 2016**.
3. Feumaidh tagraidhean a chaidh ullachadh fo Achd 2003 **ro 15 Giblean 2016** na solaran reachdail bho Pàirt 2 de dh'Achd Ath-leasachaidh an Fhearainn (Alba) 2003 a chleachdadh mar a bha iad mus deach an atharrachadh ann am Pàirt 4 de dh'Achd 2015. Bu chòir dhaibh cuideachd an stiùireadh airson còir-cheannaich coimhearsnachd bhon Òg-mhìos 2009 a chleachdadh. Gheibhear seo bhon cheangal a leanas:
<http://www.gov.scot/Publications/2009/06/08101427/0>.

Còir-cheannaich coimhearsnachd

4. Tha còir-cheannaich coimhearsnachd a’ toirt an cothrom do bhuidhnean coimhearsnachd a tha a’ riochdachadh coimhearsnachdan air feadh Alba ùidh a chlàradh ann am fearann agus còraichean (às dèidh seo sgrìobhte mar fearann) agus am fearann clàraichte seo a cheannach nuair a thèid a thairgsinn airson a reic. Tha e a’ toirt còir ro-làimh do bhuidhnean coimhearsnachd fearann a cheannach ma tha iad air ùidh coimhearsnachd a chlàradh. Gu ruige seo, tha buidhnean coimhearsnachd air ùidh a chlàradh ann am fearann leithid achaidhean, coilltean, agus iomadh maoin eile mar togalaichean, mar eisimpleir eaglaisean, sgoil agus ionad coimhearsnachd. Tha an Achd cuideachd a’ leigeil le buidhnean coimhearsnachd ùidh a chlàradh ann an còraichean iasgaich bhradain agus còraichean mèinneil (ach còraichean mèinneil ri ola, gual, gas, òr neo airgead) a tha air an cumail air leth bhon fhearann ris a bhuineas iad.
5. Gu h-àbhaisteach, tha tagraidhean airson ùidh a chlàradh ann am fearann air an cur a-steach mus tòisich uachdaran air fearann a reic (“tagradh tràth”). Faodaidh iad cuideachd a bhith air an cur a-steach às dèidh don uachdaran tòiseachadh air fearann a reic neo a thoirt seachad (“tagradh anmoch”), ach cha bu chòir tagradh anmoch a chur a-steach ach ma tha **suidheachadh air-leth ann**. Anns na suidheachaidhean seo, tha slatan-tomhais eile ann a dh’fheumas ruighinn mus tèid tagradh bho bhuidheann coimhearsnachd aontachadh le Ministearan na h-Alba.

6. Airson còir-cheannaich feumaidh uachdaran a bhith deònach fearann a reic: chan eil ceannach èigneachail ann airson fhearann a tha clàraichte fon Achd. Faodaidh buidhnean coimhearsnachd a bhith a' feitheamh deagh ùine mus bi uachdaran airson fearann a reic. Tha clàradh ùidhe a' maireachdainn airson còig bliadhna mura cur buidheann coimhearsnachd fios do Mhinistearan gum bu chòir ùidh a dhubhadh às, mura seachainn iad an cothrom còir-cheannaich a chleachdadh neo mura bheil atharrachadh san t-suidheachadh a' toirt air Ministearan an clàradh a dhubhadh às. Tha cothrom aig buidhnean coimhearsnachd tagradh a chur a-steach airson ùidh a tha clàraichte ùrachadh airson còig bliadhna eile.

7. Bu chòir don phròiseas airson còir-cheannaich coimhearsnachd a bhith air a chur an gnìomh a-rèir Pàirt 2 den Achd. Gheibhear an Achd, na nòtaichean mìneachaidh agus fo-reachdas a bhuineas dha aig na ceanglaichean a leanas:

<http://www.legislation.gov.uk/asp/2003/2/contents> (Achd 2003)

<http://www.legislation.gov.uk/asp/2003/2/notes/contents> (nòtaichean mìneachaidh)

<http://www.legislation.gov.uk/asp/2015/6/contents> (Achd 2015)

<http://www.legislation.gov.uk/asp/2015/6/notes/contents> (nòtaichean mìneachaidh)

<http://www.legislation.gov.uk/ssi/2015/400/contents/made?regulation-5-d> (Riaghailtean 2015)

<http://www.legislation.gov.uk/ssi/2016/4/contents/made> (Riaghailtean 2016)

<http://www.legislation.gov.uk/sdsi/2016/9780111030059/contents> (2016 Òrdugh)

Adhbhar an stiùiridh seo

8. Thathar an dùil gun cuidich an stiùireadh seo coimhearsnachdan a tha an dùil fearann a cheannach fo sholaran còir-cheannaich coimhearsnachd ann am Pàirt 2 den Achd, uachdarain/luchd-creideis le tèarainteachd àbhaisteach agus còir fearann a reic, treas-phàrtaidhean air am bi buaidh aig ùidh clàraichte san fhearann neo tagradh bho bhuidheann coimhearsnachd airson còir-cheannaich a chur an gnìomh, agus cuideachd daoine agus companaidhean a tha den bheachd gum bi buaidh aig tagradh mar seo air ùidh a th' aca ann am pìos fearann air choireigin. Tha an stiùireadh ann an trì pàirtean:

- tha a' chiad phàirt a' toirt stiùireadh sònraichte do bhuidhnean coimhearsnachd;
- tha an dàrna pàirt a' toirt stiùireadh sònraichte do dh'uachdarain agus luchd-creideis le tèarainteachd àbhaisteach agus còir fearann a reic; agus
- tha an treas pàirt gu sònraichte airson pàrtaidhean le ùidh san fhearann a tha ri chlàradh fon Achd.

Tha Leas-phàipearan cuideachd ann a' toirt barrachd fiosrachaidh mu dheidhinn gach pàirt.



9. Tha an stiùireadh seo a’ gabhail a-steach riatanasan reachdail ann am Pàirt 2 de dh’Achd 2003 (mar a chaidh atharrachadh a-rèir Achd 2015) agus fo-reachdas ann an Riaghailtean Còir-cheannaich Coimhearsnachd (Alba) 2015 (“Riaghailtean 2015”) agus Òrdugh 2016 (Mion-atharrachaidhean agus Cùmhnaidhean a Leanas) ri Achd Cumhachdachadh Coimhearsnachd (Alba) 2015 (“Òrdugh 2016”). Tha iomraidhean don Achd na chois airson luchd-leughaidh a stiùireadh ri na h-earrainn a bhuineas ma tha iad airson an reachdas a leughadh còmhla ris an stiùireadh seo.

10. Chan eil an stiùireadh seo a’ gabhail àite comhairle phroifeiseanta neo-eisimileach. Bu chòir do choimhearsnachd sam bith a tha an dùil buidheann coimhearsnachd a stèidheachadh airson còir-cheannaich coimhearsnachd a chur an gnìomh comhairle iomchaidh fhaighinn. Bu chòir cuideachd do dh’uachdaran neo duine sam bith eile le ùidh ann am fearann a tha den bheachd gum bi buaidh aig tagradh fo reachdas còir-cheannaich coimhearsnachd air fearann neo ùidh a th’ aca fhèin comhairle iomchaidh fhaighinn. Tha comhairle phroifeiseanta a’ gabhail a-steach comhairle laghail, a bharrachd air comhairle mu luachachadh, an àrainneachd agus rianachd fearainn.

11. Tha an Sgioba Fearann Coimhearsnachd aig Riaghaltas na h-Alba toilichte cuideachadh le ceist sam bith a th’ agaibh mu phròiseas còir-cheannaich coimhearsnachd. Chan urrainn don sgioba seo, ge-tà, comhairle laghail a thoirt seachad neo, leis gu bheil aca ri bhith cothromach sa chomhairle a tha iad a’ toirt seachad do Mhinistearan, comhairle sam bith a thoirt seachad a bheir taic sònraichte do bhuidheann sam bith (m.e. buidheann coimhearsnachd, uachdaran neo treas-phàrtaidh) a tha an-lùib cùis sònraichte.

12. Thèid ath-sgrùdadh a dhèanamh air an stiùireadh seo bho àm gu àm. Mura bheil sibh cinnteach gu bheil an tionndadh as ùire agaibh, neo ma tha beachdan sam bith agaibh mun stiùireadh fhèin, cuiribh fios don Sgioba Fearann Coimhearsnachd. Tha fiosrachadh conaltraidh ri fhaighinn ann an Leas-phàipear B.

COMMUNITY RIGHT TO BUY: GUIDANCE

SECTION 1: GUIDANCE FOR COMMUNITY BODIES



1.1 Initial Steps

1. The first steps for your community wishing to register a community interest in and buy land or rights (hereinafter referred to in this guidance as “land”) under Part 2 of the Land Reform (Scotland) Act 2003 (“the 2003 Act” or “the Act”) as amended by the Community Empowerment (Scotland) Act 2015 (“the 2015 Act”), may vary depending on your aspirations, your community need, and proposals for the use of the land. Your community might begin with an idea for a local facility or may gather community members to discuss or develop initial ideas. In any case, you must be committed to your proposals and to undertake a lot of preparation throughout both the process to register a community interest in land (the registration process) and the right to buy.
2. Your community may find that an examination of the procedures involved in the community right to buy process under the Act may help you to focus on your aspirations and needs. It may also help you to determine whether you actually need to purchase the land in order to meet those needs. Some communities may find that purchasing land under the Act may not be the best way forward for them, and that, for example, entering into a lease arrangement may better meet their aspirations. Communities interested in acquiring land should also consider the merits of acquisition by agreement rather than proceeding under the Act. This may result in a solution which is beneficial to both your community’s needs and those of the landowner.
3. Your community might like to consider how previous successful applications under Part 2 of the Act which led to the purchase of the land were developed, and how communities managed potential risks and difficulties. You can view their applications and supporting documents held in the Register of Community Interests in Land (RCIL) <http://rcil.ros.gov.uk/RCIL/default.asp?category=rcil&service=home>.
4. You may also find it useful to visit other villages or towns where land is already being managed by community bodies. The Community Assets Team in Highlands and Islands Enterprise (HIE) will be able to advise you of such projects. Their contact details are at Annex B. You may also wish to contact other successful community bodies (CBs) through their websites or their registered offices.



5. A useful introductory guide to the community right to buy process is provided in the Scottish Government's leaflets on the Community Right to Buy website at <http://www.gov.scot/Topics/farmingrural/Rural/rural-land/right-to-buy/Community>. The leaflet "The Community Right to Buy - your questions answered", published by Community Assess Team in Highlands and Islands Enterprise (HIE), may also be of interest to you. This can be obtained from HIE or viewed on its website at <http://www.hie.co.uk/community-support/community-assets/resources.html>.

6. Whichever way you decide to begin, help is available from the Scottish Government's Community Land Team. Our contact details are listed at Annex B.

1.2 Land in which a community interest may be registered

7. Your community, through a CB, may apply to Scottish Ministers (Ministers) to register an interest in land other than excluded land, which is excluded from the scope of the legislation.

8. Land in which an interest can be registered also includes a number of rights: salmon fishings and mineral rights associated with the land (except mineral rights to oil, coal, gas, gold or silver (section 33(2A) of the Act)). Your CB may apply to register an interest in these rights providing that you are, at the same time, applying to register an interest in, have already registered an interest in, or already own the land to which those rights relate.

9. Excluded land includes a number of other rights which are owned separately from the land. These include oyster or mussel gathering rights, and sporting rights which are owned separately from the land. Your CB therefore cannot register an interest in such rights.

1.3 Defining your community

The members of your community

10. The members of your "community" must be resident and be registered to vote in a local government election at an address within the area your CB has chosen to define as your "community" (section 34(5) of the Act).

How should your CB define your “community”?

11. The Act requires your CB to define your “community” in your application to register a community interest in land. Your CB can define your “community” in a number of ways, as provided for in section 34(5) of the Act, read with regulation 2 of the 2015 Regulations.

12. Your CB can use the following units and types of area to define its “community”
Postcode units can be combined with any of the following units and types of area. These are:

- **Postcode unit(s)** – an area of land covered by a full postcode, e.g. EH14 1TY, in which your CB is situated;
- **Postcode sector(s)** – an area of land covered by a partial postcode, e.g. EH14 1, (which covers a greater area than a postcode unit), in which your CB is situated;
- **Postcode district(s)** – an area of land covered by a partial postcode, e.g. EH14, (which covers a greater area than a postcode sector), in which your CB is situated;
- **Settlement area(s)** – an area of high density of residential and non-residential addresses, with a population of over 500 people. The boundaries of settlements are delineated on the maps attached to “Scottish Settlements: Urban and Rural Areas In Scotland”, published on 5 February 2001. This is available through the following link: <http://www.nrscotland.gov.uk/statistics-and-data/geography/related-publications/scottish-settlements-urban-and-rural-areas-in-scotland>;
- **Locality** – settlements are divided into localities, which are smaller, but distinct parts. Their boundaries are delineated on the maps attached to “Scotland’s Census 2001: Key Statistics for Settlements and Localities Scotland”, published on 23 March 2003. This is available through the following link: <http://www.nrscotland.gov.uk/statistics-and-data/census/2001-census/results-and-products/reports-and-data/key-statistics-for-settlements-and-localities-scotland>;
- **Electoral ward** – electoral wards are used by local authorities in elections and are defined by the Local Government Boundary Commission for Scotland. CBs should be aware that an electoral ward can cut through postcode units;
- **Community council area** – community council areas are defined by local authorities;
- **Island** – an area of land surrounded by water, usually seawater, e.g. Barra, Isle of Eigg, Isle of Bute.



13. Your CB may decide that one or a combination of these units and types of area is best suited to your needs. While the following is a limited number of examples, for illustrative purposes, it is up to your CB to decide what best suits your needs.

- You are a small community, comprising a village, with hills surrounding it. You may decide that your community is best defined using the postcode units that cover this area.
- You may be a town. You may consider that postcode units and a settlement area would best meet your needs.
- You may form part of a large settlement which has its own distinct identity and boundary around it. You may consider that the best way to define your community may be through the use of postcode units and one or more electoral wards.
- You may form a distinct part of a settlement. You may consider that the use of postcodes is the best way to define your community.
- Your proposed project may have strong connections with your local community council, and you wish to use these connections in the future. You may consider that the community council area and postcodes would be the best way to define your community.
- You may be one of the localities of the Glasgow settlement (e.g. Paisley, Giffnock, Bishopbriggs), and you want your project to benefit the area of one of these settlements. You could decide that the use of the unit and type of area that is best suited to you is the locality and postcodes. You may also wish to consider whether any of the hinterland around the locality should be included, and if so, what this area would be, and consider whether postcodes would be the best type of unit and type of area to define it.

14. When deciding on the area of your “community” you might like to work your way through the list of units and types of area to see how each of them would work in practice before coming to a decision on what unit and type of area best suits your needs.

15. When deciding what unit and type of area you wish to use, you should be aware that their boundaries may change over time. You should also be aware that the boundaries of some may not follow exactly those of others (e.g. an electoral ward may not follow the boundaries of postcodes). You should ensure that the information you provide with your application is up-to-date.

16. It is for you to demonstrate to Ministers how you have defined your “community” in a way which best suits you and your community.

17. It is important that your defined community is not made up of a number of individual pockets of residents, interspersed over a wider area. In determining any application to register an interest in land, **Ministers will look for an inclusive approach to the definition of “community”**.

18. Your CB can identify units and types of area using the Communities Mapping Tool. This includes land throughout Scotland.

The Communities Mapping Tool

19. Guidance on how to use the Communities Mapping Tool can be found in Annex C. This electronic tool has been designed to help CBs, Part 3A Community Bodies, and Crofting Community Bodies (CCBs), identify their “communities”. As the definition of “community” is different in Part 2, Part 3A (the community right to buy abandoned, neglected or detrimental land), and Part 3 of the Act (the crofting community right to buy), CBs can use the tool to identify, for example, postcode units, postcode sectors, postcode districts, electoral wards, community council areas, settlement areas, localities, and islands.

1.4 Forming and registering your community body (CB) as a company limited by guarantee, Scottish charitable incorporated organisation (SCIO) or community benefit society (BenCom)

20. The Act requires that your community forms a community body (CB). A CB may be one of a number of different legal entities: a company limited by guarantee (CLBG); a Scottish charitable incorporated organisation (SCIO), or a community benefit society (BenCom) which has a compliant Articles of Association (AofA) (if your CB is a company limited by guarantee); a compliant constitution (if your CB is a Scottish charitable incorporated organisation); or a compliant registered rules (if your CB is a community benefit society).

21. The matters that must be included in your CB’s governing document are set out in the Act. Section 34(1) specifies the matters that must be provided for in a CB’s AofA if it is a CLBG. Section 34(1A) specifies what must be in your constitution if your CB is a SCIO. Section 34(1B) specifies what must be in your registered rules if your CB is a BenCom.



22. The matters that are set out are:

- a definition of the community to which your organisation relates (section 34(1)(a) of the Act if your CB is a CLBG; section (1A)(a) of the Act if your CB is a SCIO; or (1B)(a) of the Act if your CB is a BenCom);
- provision enabling your CB to exercise your right to buy land under Part 2 of the Act (section 34(1)(b), (1A)(b) or (1B)(b) of the Act);
- provision that your CB must not have fewer than 10 members (Ministers have a discretionary power (section 34(2)) to accept a CB with fewer than 10 members, e.g. in a remote rural community). If you think this is relevant to you, you should discuss this point with the Community Land Team before submitting your CB's draft AofA, constitution or registered rules. If section 34(2) is to be applied, your CB should demonstrate why it is not possible for it to have 10 members and ensure that your CB's application cannot be construed as a private or family application (section 34(1)(c), (1A)(c) or (1B)(c));
- provision that at least three quarters of the members of your CB consist of members of your community (section 34(1)(d), (1A)(d) or (1B)(d));
- provision whereby the members of your CB who are also members of your community have control of your CB. Ministers recognise that non-community members can contribute substantially to and play a vital part in the success of a community purchase by bringing the necessary skills and expertise. While Ministers acknowledge the importance of non-community members, care should be taken to ensure that, where such other members are to have a role in relation to your CB, that role should not prejudice the position that community members must have control of your CB (section 34(1)(e), (1A)(e) or (1B)(e));
- provision ensuring proper arrangements for the financial management of your CB (section 34(1)(f), (1A)(f) or (1B)(f));
- provision that where a person requests a copy of the minutes of your CB's meeting, your CB gives a copy of the minutes to that person within 28 days of the request, if that request is reasonable (section 34(1)(fa), (1A)(g) or (1B)(g));
- provision that where a request is made for a copy of the minutes of your CB's meeting, your CB may withhold information in these minutes provided that your CB has reasons for doing so (section 34(1)(fb), (1A)(h) or (1B)(h));
- provision that any surplus funds or assets of your company are to be applied for the benefit of your community (section 34(1)(g), (1A)(i) or (1B)(i)); and

- provision that on the winding up of your CLBG and assessment of your liabilities, your property (including any land acquired by it under Part 2 of the Act) passes – (i) to a CB, crofting community body or Part 3A CB (Part 3A is the community right to buy abandoned, neglected or detrimental land) which is approved by Ministers; or (ii) if no other CB, crofting community body or Part 3A body is so approved, to Ministers or to a charity which Ministers may direct (section 34(1)(h)).

23. The Scottish Government has access to a model AofA, constitution, and registered rules which are compliant with the 2003 Act. These can be accessed on the Scottish Government’s community right to buy webpages (Please see paragraph 24 below).

24. “Model” AofA have been developed to assist potential CBs in making their AofA compliant with the criteria specified in section 34 of the Act. The HIE Model AofA (<http://www.hie.co.uk/community-support/community-assets/default.html>), which the Scottish Government supports, is available on the Scottish Government website at <http://www.gov.scot/Topics/farmingrural/Rural/rural-land/right-to-buy/Community/Guidance>. A model is also available to DTAS members on their website at <http://www.dtascot.org.uk/>.

25. If your CB wishes to form as a SCIO, a model constitution can be accessed on OSCR’s website. This can be accessed via the following link: <http://www.scvo.org.uk/setting-up-a-charity/write-your-constitution/scottish-charitable-incorporated-organisation/>. The Scottish Government also has access to a model constitution. This can be found on its Community Right to Buy webpages.

26. If your CB wishes to form as a BenCom, model registered rules can be accessed on the FCA website at <http://www.fca.org.uk>. The Scottish Government also has access to a model registered rules for community bodies. This can be found on its Community Right to Buy webpages.

27. You should be aware that these governing documents are not an “off the shelf” product and they may need to be amended meet your needs.

Seeking charitable status

28. It is up to your CB to decide whether you want to obtain charitable status, and if you do, when you wish to obtain that status. Most CBs wait until they are purchasing their registered land before they seek that status.



29. If your CB is a CLBG, the process to secure charitable status may require you to make changes to your AofA. You should contact the Office of the Scottish Charity Regulator (OSCR) for details on the requirements to become a charitable body. The Scottish Council for Voluntary Organisations (SCVO) also provides information to members of the public on setting up a charitable company. Full contact details for these organisations can be found at Annex B.

Seeking approval of your draft Articles of Association, constitution or registered rules

30. You should send your draft AofA, constitution, or registered rules to the Community Land Team before you incorporate your organisation. This will ensure that your organisation's AofA, constitution, or registered rules, meet the requirements of section 34 of the Act. This may save you time and inconvenience in the long run. If your CB is already an incorporated organisation before you apply to use the community right to buy provisions, you should contact the Community Land Team to ensure that your AofA, constitution, or registered rules, are also compliant with section 34 of the Act.

31. When Ministers are satisfied that your CB's AofA, constitution, or registered rules, contain provisions which satisfy the criteria in section 34 of the Act, they will issue you with a letter that states that they are satisfied that the main purpose of your body is consistent with furthering the achievement of sustainable development, i.e. an integrated long-term approach to economic, social and environmental issues. Further information on sustainable development can be found in paragraphs 84 to 89 of this guidance. After receiving this letter, you should incorporate your company with Companies House if your CB is a CLBG, the Office of Scottish Charity Regulator (OSCR) if your CB is a SCIO, or the Financial Conduct Authority (FCA) if your CB is a BenCom (addresses for these regulators can be found at Annex B). If your CB is already an existing CLBG, SCIO, or BenCom, you should inform Companies House, the OSCR, the FCA, as appropriate, of the changes to your CB's AofA, constitution, or registered rules, as appropriate.

Changes to your Articles of Association, constitution or registered rules

32. Once your CB has been set up you should inform Ministers of any changes that you have made to your AofA, constitution, or registered rules. If your CB no longer meets the requirements of the Act, Ministers could, if your CB has a registered interest in land, instruct that your CB's interest be deleted from the RCIL. If your CB had purchased land under the Act, they may acquire compulsorily from your CB that land as, being no longer in compliance with the Act, your CB would not now be allowed by Ministers to purchase that land (section 35(3) of the Act).

1.5 Demonstrating community support

33. Demonstrating community support is very important to the success of your CB's application to register your community interest in land. Even before you start to complete your application form to register a community interest in land, your CB should consider how to start to secure the support of your community.

34. When your CB is considering how to secure community support, you should be aware that the approval of that support must be indicated within six months of the date when you submit to Ministers your application to register an interest in land and that the approval of each of the members of the community must also be indicated within that period. Ministers will not take into account any community support which is dated more than six months from the date of your CB's application to register a community interest in land (section 38(2A) of the Act). Thus, if your CB decides to demonstrate community support for your proposals using a petition list, each entry on the list must be dated within six months of the date when your application is submitted to Ministers.



35. To register your community interest in land, your CB should demonstrate to Ministers that you have the support of **at least** 10% of your community (section 38(2) of the Act). This is the figure for a “timeous” application (see paragraph 59 for “timeous applications”). It is for your CB to decide how to show that you have achieved your support. Previous applicants have provided a petition list signed by members of their community who support the proposal, cross referenced against the Edited Electoral Register for their community (a charge may be made for a copy of the Edited Electoral Register, which does not list the names and addresses of the people who have asked to be excluded from that version of the Full Register) and also evidence of the total number of eligible voters within their defined community (from the full Electoral Register for their defined community). This will allow you to determine an accurate level of support. Your local Electoral Registration Office should be able to supply you with a copy of the relevant Edited Electoral Register and the number of eligible voters. In **exceptional** circumstances for a timeous application, less than 10% support may be acceptable (section 38(2)(b) of the Act). In such cases, Ministers will consider carefully your reasons for not having at least this level of support.

36. If your application is a “late” application, (i.e. where your application was submitted after the owner or a creditor in a standard security with a right to sell the land has taken steps to transfer the land or sell it) your CB is required to demonstrate a significantly greater level of community support than that which Ministers would have considered sufficient for a timeous application, i.e normally 10% of the community (section 39(3)(b) of the Act).

1.6 The Register of Community Interests in Land (RCIL)

37. The Act provides for the setting up and maintenance of the Register of Community Interests in Land (RCIL) which contains information and documents relating to each CBs’ application to register a community interest in land (section 36 of the Act).

38. The Keeper of the Registers of Scotland (RoS) (“the Keeper”) is the Keeper of the RCIL. The main function of the Keeper is to maintain the RCIL and to ensure that the Register is made available for public inspection at all reasonable times and is free of charge. The Register can be viewed through the RoS website at <http://rcil.ros.gov.uk/RCIL/default.asp?category=rcil&service=home>

39. Ministers will instruct the Keeper to enter information in the RCIL at various stages of your CB's registration and the community right to buy process. Additional information may be entered into the Register if Ministers so instruct. Section 36(2) of the Act specifies the information that must be held in the RCIL. Your CB which is registering an interest can require that any such information or document which relates to the raising of funding, be withheld from public inspection and will not be entered into the RCIL; Ministers will keep that information or document separately from the Register (section 36(3) and (4) of the Act).

40. If your CB changes your registered or principal office when you have a registered interest in land, you must notify Ministers as soon as is reasonably practicable after that change has been made (section 44a of the Act).

41. **If you are considering whether to register a community interest in land you may find it helpful to consult the Register of Community Interests in Land to see examples of applications and supporting documents which registered CBs have submitted to Ministers.**

1.7 Single and multiple registrations of land

42. A registered interest must relate to land in the ownership of one person or land in common or joint ownership (see section 37(15) of the Act). There can also be multiple registrations of land. This can mean: (1) that a CB has registered an interest in more than one piece of land (e.g. the parcels of land they want to register an interest in are owned by a number of different owners and/or creditors in a standard security with the right to sell land); or (2) more than one CB has registered an interest in the same piece of land.

(1) A CB with multiple registered interests

43. Where your CB wants to register an interest in several pieces of land which are owned by a number of different landowners, you must prepare and submit a separate application for each owner. Registration of an interest in more than one piece of land will ensure that your CB has more than one opportunity to purchase a piece of land if it is offered for sale. If your CB registers an interest in only one area of land, it may not come up for sale for some time. Registering an interest in several pieces of land provides more opportunities for your CB to achieve your aspirations.



44. Your CB should not use multiple registrations as a “blanket” registration. Should your CB consider submitting multiple registrations, you should demonstrate serious intent to purchase any land subject to your registration. Your CB should make applications only in respect of land which, given the opportunity, you would want to buy. Any attempt to register a larger piece of land when a smaller piece is required will, in terms of section 67(2) of the Act, result in your CB having to buy either all or none of the registered land if the whole area of land is put up for sale. This may result in your CB missing out on the piece of land you need, or having to buy too much land at additional expense. **Your CB should focus on land that you need and, when given the opportunity, you would want to buy.**

(2) More than one CB with a registered interest in the same land

45. The Act does not prevent more than one CB from registering an interest in the same piece of land. This is reasonable where each CB has different intentions for the land. However, if the land comes up for sale and more than one CB confirms that they wish to proceed with the right to buy, section 55 of the Act requires Ministers to decide which one will proceed. There is, however, no guarantee that either application will proceed where it appears to Ministers that it is not in the public interest to let one CB proceed over the other if this would result in, for example, a division in the local community affecting its stability. **It is therefore very important that your application to register a community interest in land is as detailed and robust as possible, as Ministers will make their decision on the information that your CB provides.**

46. Once Ministers have decided which CB should buy the land, the unsuccessful CB’s right to buy is extinguished and its registered interest is deleted from the RCIL, though it will remain visible. This also applies where a CB and a Crofting Community Body (CCB) under Part 3 of the Act seek to buy the same land. Separate guidance is available for the crofting community right to buy in Part 3 of the Act. Copies are also available from the Community Land Team (contact details are listed in Annex B).

1.8 Applying to register your CB’s community interest in land

Preliminaries

47. Before your CB applies to register your community interest in land you must have received a letter from Scottish Ministers stating that they are satisfied that the main purpose of your CB is consistent with furthering the achievement of sustainable development.

48. Your CB must use the official form to apply to register your community interest in land. This form has the title “Application to register a community interest in land”. Statutory provision for this form is made in Schedule 2 of the 2015 Regulations (see Annex B). As the form is set in legislation, you must not alter or delete any of the wording on it. The form is available from the Scottish Government’s website at <http://www.gov.scot/Topics/farmingrural/Rural/rural-land/right-to-buy/Community>.

49. Your CB’s application form and all supporting documents such as maps, drawings, and evidence demonstrating community support, and the governing documents of your CB, will be considered by Ministers when they consider whether your application to register an interest in land should be approved. **It is essential that your application is completed in full and all supporting documentation is attached. You should ensure that all the details are accurate and legible and that all accompanying documents are clearly labelled and referenced appropriately. Incomplete application forms will be returned to you and will not be considered.** Any delay arising from the submission of an incomplete application form to Ministers could mean that your CB misses your opportunity to buy the land if it is sold quickly, as a landowner is free to sell any land until a prohibition notice is issued in terms of section 37(5)(e) of the Act.

50. Although the application form (and the requirements of the Act) does not require your CB to state in great detail your proposals for the use of the land at this stage (e.g. by including a feasibility study), general details of proposed use may help to demonstrate how any proposed land use is sustainable and how your community’s registration would be in the public interest (as required by section 38(1)(e) of the Act).

The application form

51. The application form to register a community interest in land can be downloaded and completed electronically or downloaded and completed manually using black or blue ink and in capital letters. Additional pages may be attached. If you are including additional pages, you should ensure that they are clearly marked, showing the question number they refer to (e.g. “Section 3.4 – see Annex A”). You should also ensure that you also refer to the Annex in your answer given in the application form.



52. The application form to register a community interest in land is divided into nine sections which each focus on a particular topic. These are: who is applying; details of who is applying; the land to be registered; ownership & interests; late application evidence (to be completed where appropriate); community support; proposals for the land; public interest; and declaration.

53. Your completed application form must be signed by two board members, charity trustees, or committee members, on behalf of your CB, who have been authorised by your CB. They must also provide their full names and addresses for the purposes of prevention and detection of fraud.

54. If your CB makes any inaccurate statement, provides any inaccurate statement, provides inaccurate information, either deliberate or accidental, or your CB knowingly withholds any information, these actions could result in Scottish Ministers deciding not to register your community interest in land.

55. Your CB's application, including the description of land you are seeking to register an interest in, will appear in the Register of Community Interests in Land. Supporting documents that are not maps may appear (see also paragraph 57 of this guidance).

56. Your CB's attention is drawn to Section 9 – Declaration of the form which provides further administrative processes which you must understand when submitting your application form to register a community interest in land to Scottish Ministers. Your CB and your signatories should ensure that they understand the declaration before it is signed.

Maps, plans or other drawings

57. Maps, plans or other drawings accompanying your application form must comply with Part 1 of Schedule 1 and Part 2 of Schedule 1 of the 2015 Regulations (see Annex B). In particular:

- Maps should be used to clearly identify the boundaries of the community and land to be registered.
- All maps and drawings should be made to a metric scale, corresponding to a scale used by the Ordnance Survey for that land, show a north point and give OS Grid References to enable the location to be fixed accurately.
- Metric measurements to one decimal place (e.g. 8.2 metres, 2.3 ha) should be used. Imperial measurements (e.g. 1 inch to 8 feet) should not be used.

- Maps should contain sufficient details of the land surrounding the area in which your CB wants to register an interest (such as fences, houses, etc.) to enable its position to be accurately determined.
- Drawings may be used to provide accuracy of the stated location and dimensions of the land to be registered.
- Drawings which simply show a perimeter cannot be taken as accurate. They should include diagonal measurements, angles at each change of boundary direction and National Grid co-ordinates supported by tape measure or Global Positioning System (GPS) along each boundary.
- Undefined boundaries should be accurately fixed to existing detail by metric measurements shown on the map/drawing.
- Maps showing the location of the land in relation to a settlement should show the boundaries of the postcode units. These should also be detailed in the description of the land given on the application form.
- Any salmon fishings or mineral rights subject to your application should be clearly marked on your map, showing boundaries, etc. as above.
- **Maps, plans or other drawings that do not comply with Schedule 1 of the 2015 Regulations (Annex B) will be returned to you. This may result in a delay to your CB seeking to register your community interest in land.**

Timeous or late application

58. Your CB is required to select the appropriate box to identify whether the application is a “timeous” application or a “late” application.

59. A “**timeous**” application is one where the land in which your CB wishes to register your interest in is not on the market and no other action has been taken by the owner of the land, or a creditor in a standard security with a right to sell the land, with a view to transfer the land (see section 37 of the Act). CBs should submit an application as early as possible and to be pro-active in registering an interest before steps are taken to market the land.

60. A “**late**” application is one where the land is on the market or any other action has been taken by the owner of the land, or creditor in a standard security with a right to sell the land, with a view to transfer the land, but the missives have not been concluded or before an option to acquire the land is conferred (see sections 39(1A) and 40(5) of the Act). A late application is expected to be submitted in only **exceptional** circumstances.



61. If your CB is submitting a “late” application you must ensure that Ministers receive it either before the date on which the missives for the sale of the land are concluded, or before an option to buy the land is agreed between the landowner and a third party. If an application is received by Ministers after the land has been transferred or an option agreement conferred, Ministers are bound to reject the application (section 39(4A) and (5) refer).

62. As noted above, “late” applications are to be submitted in only exceptional circumstances. This is because they have an effect on the live land market. Because of that impact, the criteria for a “late” application are more stringent than for a “timeous” application (see section 5 as well as section 6 and 8 of the application form to register a community interest in land).

63. It would be helpful if your CB could telephone the Community Land Team in advance of you submitting your “late” application as the timescales during this process are more restrictive. You should also clearly mark your application as “late application” by selecting the appropriate box on the front page of the application form.

64. Your CB may not be aware that the owner of the land or the creditor in a standard security with a right to sell the land, has taken steps to transfer the land which is the subject of your application. If you are unaware that your application is deemed “late”, the landowner or the creditor in a standard security with a right to sell the land is required to inform Ministers of this fact on receipt of a copy of your application (section 39(2)(a) of the Act).

Completing the application form to register a community interest in land: “Application to register a community interest in land”

Section 1 Who is applying

Section 1.1

- You are required to state the name of your CB that is applying to register a community interest in land. This information will be recorded in the RCIL (see section 36(2)(a), (aa) and (ab) of Act).
- You should ensure that the name of your CB is the same as that registered with Companies House (for a CLBG), the Office of the Scottish Charities Regulator (OSCR) (for a SCIO), or the Financial Conduct Authority (FCA) (for a BenCom), as appropriate.

Section 2 Details of who is applying

65. This section asks for details of your CB that is applying to register a community interest in land, details of the community which your CB represents, and membership details of your CB.

Section 2.1

- You should provide the address of the registered or principal office of your CB. This information will be recorded in the Register of Community Interests in Land (RCIL) (as required by section 36(2)(a), (aa) and (ab) of Act).

Section 2.2

- If the address you have provided in section 2.1 is not your CB's preferred contact address to which all correspondence will be issued by Scottish Ministers, you should provide an alternative contact address for your CB. You should also include your contact telephone number and an email address.

Section 2.3

- You are required to confirm the type of body your CB is and your official number. If your CB is a company limited by guarantee, you should state your company number. If your CB is a Scottish charitable incorporated organization (SCIO), you should state your charity number. If your CB is a community benefit society (BenCom), you should state your registration number.
- You should enclose a copy of your CB's incorporated AofA, constitution, or registered rules, and Certificate of Incorporation from Companies House, OSCR or FCA, as appropriate, with your application form. This is to provide evidence of your company, charity, or registration number.

Section 2.4

- You are required to provide a definition of the "community" which your CB represents. This must be in accordance with section 34(1)(a), 34(1A)(a) or 34(1B)(b) of the Act.
- You should state the name, location, and boundaries of your "community". The definition of your community will be the same as that provided in your CB's AofA, constitution, or registered rules, as appropriate (section 34(5) of the Act and regulation 2 of the 2015 Regulations).
- Guidance on how to define your "community" is at Section 1.3 of this guidance.



Section 2.5

- Your CB is required to provide maps or drawings which clearly show your “community” boundary.
- Your maps or drawings should describe the area(s) of the “community” to which your CB relates.
- You should confirm the number of maps or drawings your CB is submitting that show the boundary of your “community”.
- You are required to make your maps or drawings in accordance with Part 2 of Schedule 1 to the 2015 Regulations (see Annex B).

Section 2.6

- At Section 2.6(A) you should state the total number of members in your CB.
- Your CB must have a minimum of 10 members (section 34(1)(d), (1A)(c) and (1B)(c) of the Act refer). However, Ministers may allow a CB to have fewer than 10 members in exceptional circumstances, for example if your community is in a remote rural location. In addition, at least three quarters of the members of your CB must be members of your “community”.
- At Section 2.6(B) you are required to provide a breakdown of the membership of your CB, with the total number of members of each membership type, as defined in your CB’s AofA, registered rules, or constitution, as appropriate. This may, for example, include ordinary, associate, or junior members.
- At Section 2.6(C) you are required to list the membership details of your members, as defined in your CB’s AofA, registered rules, or constitution, as appropriate. This should include the names, addresses, and membership type of all your CB members.

Section 3 The land to be registered

66. By the time your CB has started to complete your application form to register a community interest in land, you will have identified the land (which in this guidance includes land rights), and rights which you wish to register your community interest in. Ministers need to be able to identify the precise location of the land that your CB wants to register your interest in (as required by section 36(2)(f) of the Act). They also need to understand your CB’s development proposals for the land, and your community’s connection with that land.

Section 3.1

- You should mark an “X” in all the relevant box(es) to indicate the type(s) of land that your CB is seeking to register an interest in. If you select “other type of land, salmon fishings or mineral rights please state below”, you should ensure that you indicate all the types of land or rights.

Section 3.2

- You should state the estimated area of the land (or land in respect of which the salmon fishings or mineral rights are exigible) in which your CB wishes to register your interest in.
- It is up to your CB to decide the appropriate form of measurement to use. This will depend on the extent of the land to be registered. In some cases, where there is a large area of land to be registered, the appropriate unit will be hectares. Where you are registering an interest in a building, the appropriate unit will be square metres.

Section 3.3

- You should state the name of the county or counties in which the land (or land in respect of which the salmon fishings or mineral rights are exigible) your CB is seeking to register an interest in is located.
- The name of the county should be set out according to its pre-1974 designation (e.g. Berwickshire, Argyllshire).

Section 3.4

- You are required to provide a clear written description of the land (or land in respect of which the salmon fishings or mineral rights are exigible) in which your CB wishes to register an interest (as required by section 36(2)(f) of the Act).
- This written description should include:
 - the location of the land (or land in respect of which the salmon fishings or mineral rights are exigible);
 - the location of the land in relation to the “community” that has been defined by your CB;
 - the boundaries of the land (measurements should be provided where required).

You should cross-reference the details relating to the location of the land with maps of the land and the area in which the land is located.

- Guidance on maps, plans and drawings is set out in paragraph 57 of this guidance document.



Section 3.5

- Your CB is required to describe in maps, plans or other drawings the land you are seeking to register a community interest in.
- You should state the number of maps, plans or other drawings which show the land and any rights which you are submitting with your application to register a community interest in land.
- Maps, plans or other drawings must conform to Part 1 of Schedule 1 to the 2015 Regulations (see Annex B).
- You should ensure that the maps, plans or other drawings are clearly cross-referenced with the details requested at Section 3.4 of the application.
- Guidance on maps, plans and drawings is set out in paragraph 58 of this guidance document.

Section 3.6

67. Your CB can register an interest in salmon fishing rights which are owned separately from the land in respect of which they are exigible (see section 33(2A) of the Act).

- If the salmon fishings are owned separately from the land, but by the same owner under different title, your CB will need to consider whether you want to register an interest in them along with the land you are registering an interest in.
- If you decide that your CB wants to include salmon fishing rights in your application you will need to provide details of them (as required by section 38(1)(c) of the Act).
- You should mark an “X” in the relevant box to indicate whether your application is to register an interest in salmon fishings which are owned separately from the land in respect of which they are exigible.
- If your CB indicates that this application includes these rights, you should provide details of the salmon fishings, including details of ownership.

Section 3.7

Your CB can register an interest in mineral rights (except rights to oil, coal, gas, gold, or silver) which are owned separately from the land you are seeking to register an interest in.

- Your CB will need to consider whether you want to register these rights along with the land in which you are seeking to register an interest in.
- If you decide that your CB wants to include mineral rights in your application you will need to provide details of them (as required by section 38(1)(c) of the Act).
- You should mark an “X” in the relevant box to indicate whether your application is to

register an interest in mineral rights which are owned separately from the land in respect of which they are exigible.

- If your CB indicates that this application includes these rights, you should provide details of the mineral rights, including details of ownership.

Section 3.8

68. Having identified the land your CB wants to register an interest in, you should also investigate whether that land is subject to the following processes: planning permission, has an outstanding planning application, is indicated as being suitable for development in the local authority's local development plan, is subject to a compulsory purchase order, or has any burdens on, or restrictions on the use of the land.

- This section asks your CB to indicate whether any of the five processes listed above in respect to planning, development, and land use apply to the land you are seeking to register an interest in. You should mark an "X" in the relevant "Yes" and "No" box in relation to each process as it applies to the land to which this application relates.
- If you have answered "Yes" to any of the questions in this section you should provide details in the text box beneath the questions.

69. The answers your CB provides in this section of the application form are considered by Ministers as part of their consideration of whether your CB's registration is in the public interest (as required by section 38(1)(e) of the Act). Ministers will consider the local development plan for the area when deciding on the matter of public interest. Where the land you are applying to register an interest in is already included or proposed to be included in your local authority's local development plan, your CB may wish to consider discussing your proposed registration with your local authority prior to submitting your application. Where land that has a registered interest in it is included in the local plan at a later date, your CB should also consider discussing your proposals with your local authority and, in any event, before the landowner sends their notice of intention to sell to Ministers (section 48(1) of the Act). The inclusion of land your CB is seeking to register an interest in in a local plan does not, in itself, prevent the land from being registered.

70. **The community right to buy process is not intended to be used as a means to stop the landowner from developing their land in any way.** If a landowner wishes to develop their land for housing or for other purposes which are subject to the planning process, these are matters for the planning authority to determine and not for the community right to buy process. These two processes **are entirely separate matters and are in no way related.** The existence of an application to register a community interest in land will not affect Ministers'



consideration of any planning matter which may subsequently come before them for determination in terms of relevant planning legislation.

71. If the landowner had an option agreement to transfer the title of the land in place before your CB submitted your application, **Ministers will have no choice but to decline to consider your application (section 39(5) of the Act)**. An option agreement put in place after a valid application has been submitted will be deemed to have no effect for the purposes of section 39 of the Act.

72. Depending on the terms of the lease, any formal lease arrangement that is in place and is in effect at the time that you have a registered interest in place may continue. Should your CB be successful in purchasing the land at the right to buy stage, any such lease arrangements may be transferred to you as the new owner of the land. Any burdens on the land will be transferred to you.

Section 3.9

- Your CB is required to describe the connection your “community” has with the land which is the subject of your application to register an interest in land.
- You should consider the relationship between the land in which you are seeking to register an interest in and the boundary of your “community” which you have defined. Ministers need to be satisfied of the relationship between the land and your “community” (as required by section 38(1)(b) of the Act).
- The Act does not define what connection a “community” is expected to have with the land your CB is seeking to register an interest in. It is for your CB to show that your defined “community” has such a connection.
- This section of the application form asks you to mark an “X” in one of the three boxes which your CB considers best describes your community’s connection to the land in relation to which your application is made.
- If you consider that a significant number of the members of your “community” have a connection with the land, you should select the first box and provide full details of the community’s connection with the land in the text box below the three options.
- If you consider that the land in which your CB wishes to register an interest is sufficiently near to land with which those members of your “community” have a connection, you should select the second box and provide full details of your community’s connection with the land in the text box below the three options.
- If you consider that the land in which your CB wishes to register your interest in is sufficiently near to your community, you should select the third box and provide full details of why the distance between the land and the area of the “community” is sufficient in the text box below the three options.

Section 4 Ownership & interests

73. Your CB is required to take steps to identify the owner of the land and any creditors in a standard security with the right to sell the land in which you are seeking to register an interest.

74. It is important that your CB identifies the correct owner of the land you are seeking to register an interest in and any creditor in a standard security with the right to sell the land.

75. This is because all correspondence relating to your application and the prohibition notice which prevents the landowner and any creditor from offering the land for sale must be properly served on them (see section 37(5)(e) of the Act and section 1.9 of this guidance). In addition, the right to buy cannot be “activated” without a willing seller.

76. If the details relating to the owner(s) and any creditor(s) with a standard security in the land in which your CB wishes to register are incorrect, your application will be not be considered by Ministers. It is therefore in your best interests that your CB identifies the correct owner(s) and creditor(s) in a standard security with the right to sell the land.

77. Your CB may wish to contact Registers of Scotland (RoS) to identify the owner of the land and any creditors in a standard security with the right to sell the land in which you wish to register an interest in.

78. You may also wish to contact Companies House, OSCR, or FCA to check if an owner is registered with these regulators (contact details at Annex B).

Public notice of application where the owner of the land is unknown or cannot be found

79. If your CB satisfies Ministers that the owner(s) is/are unknown or cannot be found, section 37(4) of the Act requires that your CB gives public notice of the proposed application by placing an advertisement for two consecutive weeks in a newspaper circulating in the area where the land is located, and (unless your CB’s application is in respect of salmon fishing or mineral rights which are owned separately from the land) by affixing a conspicuous notice to the land. The notice should be placed near a path or, if possible, a road.

80. Your CB should also consider whether you should affix more than one notice if the area of land is extensive (section 37(4)(b) of the Act). The content of this notice is provided for in Schedule 4 of 2015 Regulations (see Annex B).



Public notice of application where the owner of the salmon fishings/mineral rights are unknown or cannot be found

81. If your CB's application to register an interest in land includes salmon fishing or mineral rights which are owned separately from the land and the owner of the rights is unknown or cannot be found, you are required to give public notice of your application in respect of these rights.

82. In addition to the notification referred to above in respect of land, your CB is required to make *at least* one further public notice, prior to the date your CB's application is made (sections 37(4A) and (4B) of the Act and regulation 4 of the 2015 Regulations):

Your CB must make the form of notice in at least one of the following ways:

- Affixing a conspicuous notice to, or as near as practicable to, a part of the land in respect of which the salmon fishings or mineral rights to which the proposed application relates are exigible;
- Affixing conspicuous notice to a public notice board situated in, or as near as practicable to, a part of the land in respect of which the salmon fishings or mineral rights to which the proposed application are exigible;
- Placing an advertisement in a local newsletter, circular, or similar document circulating in, or as near as practicable to, the land in respect of which the salmon fishings or mineral rights to which the proposed application relates are exigible. Such a document may be in paper or electronic form.

Section 4.1

- Your CB should provide the contact details of the owner of the land to which your application relates. These contact details must include a contact name and postal address. If applicable, you should also provide the company number of the owner. Your CB can obtain the Company Number from the Companies House website. Contact details are at Annex B.
- If the landowner or creditor in a standard security is unknown or cannot be found, you should state "unknown" in the text box.
- If the landowner or creditor is unknown or cannot be found, you are required to provide full details of the steps your CB has taken to identify them in Section 4.4 and 4.5.

Section 4.2

- If the land which is the subject of your application has more than one owner, e.g. if it is in joint or common ownership between a number of owners, you are required to provide the contact details for the other owners.
- The details of the other owners should include a contact name and postal address. If applicable, your CB should also provide the company number of the owner. Your CB can obtain the Company Number from the Companies House website. You should also check to see if the owner is regulated with OSCR or FCA (see Annex B).

Section 4.3

- Your CB is required to notify Ministers of the existence of any legally enforceable rights and interests in the land or part of it that you are seeking to register an interest in. This can include any standard security (e.g. a mortgage) (see section 37(2) of the Act).
- Your CB should therefore establish whether there are any leases or other legally enforceable rights, and whether there is a creditor with a standard security with the right to sell the land. You can check these details with RoS.
- **Failure to note a creditor in a standard security, where one exists, will result in your CB's application being returned ineligible for consideration.**
- Your CB should list the names and addresses of all persons who have legally enforceable rights and interests in all or a part of the land you are seeking to register an interest in. You should also provide details of those rights and interests.

Section 4.4

- Your CB (and Ministers) need to be satisfied that you have included the correct ownership details in your application form.
- Ministers require your CB to demonstrate the checks made and by whom, to establish the ownership details as well as the details of any creditor in a standard security in your application.
- Your CB should provide full details of all the investigative steps and checks that you have undertaken to identify the owner of the land, and all persons with interests in that land you are seeking to register an interest in.

Section 4.5

- If your CB has been unable to identify the owner of the land or any creditor in a standard security with a right to sell the land, or they cannot be found, you are required to set out the details of the steps your CB has undertaken to try to identify and locate them, in accordance with section 37(4) and (4A) of the Act.



Section 5 Late application evidence

- **If your CB has indicated that this is a “late” application (i.e. where the land is on the market or any other action has been taken by the owner or the land, or creditor in a standard security with a right to sell the land, with a view to transfer of the land), you must complete this section.** If your CB’s application is a “timeous” application, you are not required to complete this section and you should continue to Section 6 – Community support.
- If your CB is submitting a “late” application, you are also required to complete a number of more demanding tests than for a timeous application. These are to be completed in Section 6 and Section 8 of the application form to register a community interest in land. These criteria include a greater level of community support for your CB’s application to register an interest in land; and your CB is also required to provide strongly indicative reasons of why your “late” application to register a community interest in the land is in the public interest.
- It may not always be clear if an application is a “late” one or when the first steps were being taken by an owner or creditor in a standard security with a right to sell the land, with a view to transfer the land.
- There may be instances where Ministers require further information to establish whether an application is a “late” application. They can request further information from the owner, creditor in a standard security with the right to sell the land, or any person they consider is able to provide them with that necessary information. This requested information is to be provided to Ministers within 14 days of the request being made by Ministers (section 39(2)(aa) and 39(3B) refers).
- If Ministers receive evidence that confirms that your application has been received after missives have been concluded, or an option to acquire the land is conferred, they must decline to consider your CB’s application (section 39(4A) and (5) refers).

Section 5.1

- For a “late” application, your CB is required to demonstrate that a person (being either your CB or a person with a view to an application being made by your CB) carried out work to prepare an application to register an interest in land or undertook relevant steps towards securing ownership of the land by a CB. The land for which those relevant work or relevant steps were taken does not need to be the land which is the subject of your right to buy application. The relevant work or relevant steps could have been taken to acquire other land, although your CB must have intended to use that other land for the same purpose as you intend to use the land which is the subject of your application to register an interest in land. The work or steps must have been sufficiently in advance of the land being offered for sale, or sufficiently in advance of steps being taken to transfer the land or grant an option agreement.
- In answering 5.1, your CB is required to provide details of all the relevant steps or work that has been undertaken to register an interest in relation to either (a) the land to which this application relates; or (b) other land with a view to that land being used for purposes that are the same as those proposed for the land in which this application relates. This could be work or steps undertaken by your CB or by another person with a view to an application being made by your CB.

Section 5.2

- Even if work was not carried out, or steps were not taken, with a view to acquiring the land before the landowner took steps to sell or transfer the land, Ministers may decide that your application should be consented to, if there are good reasons why the relevant work or relevant steps were not carried out, and if your CB has good reasons why your application to register an interest in the land should be approved by Ministers.
- If relevant work was not carried out, or relevant steps not taken, as set out in Section 5.1 of this application form, you should answer this section.
- At (A) you are required to provide reasons why relevant work was not carried out or relevant steps not taken.
- At (B) you are required to give reasons why your “late” application should be approved by Ministers, despite such relevant work not having been carried out or relevant steps not having been taken.



Section 5.3

- If the landowner or creditor in a standard security offered to your CB land which is mainly the same as the land which is the subject of your application to register an interest within the last 12 months, Ministers will reject your application unless your CB can provide good reasons why you did not proceed with the purchase of that land.
- You are required to indicate by marking an “X” in the relevant box whether the owner or the creditor offered to sell mainly the same land as the land to which this application relates to your CB within the last 12 months.
- If you answered “Yes” to indicate that the land was offered to your CB, you should provide details why your CB did not proceed to buy the land.

Section 5.4

- Your CB is required to confirm whether the landowner or creditor in a standard security that offered the land to which this application relates, offered it to another CB within the last 12 months. If Ministers consider that the two CBs are sufficiently “similar” (see below), your application will be rejected unless there are good reasons why that other CB did not proceed with the purchase of the land.
- You should mark an “X” in the relevant box to confirm whether, to the knowledge of your CB, the owner or the creditor, offered to sell mainly the same land as the land to which this application relates to another CB within the last 12 months.
- If you have marked “X” in the “Yes” box, you should provide reasons (if known) why that other CB did not proceed to buy the land at that time.
- When considering whether your CB is “similar” to the CB that was offered the land by the owner, Ministers will consider matters set out in regulation 11 of the 2015 Regulations (Annex B). The Regulations set out five criteria that Ministers will have regard to when considering whether a CB is similar to another CB to a significant degree. These relate to matters such as: whether there are directors, charity trustees, officers in common to both CBs, whether any member of the CB making the application is also a member of another CB; the extent to which the purposes of each CB are similar; the extent to which the definitions of the communities to which each CB relates are similar; the date on which the CB was formed; and where applicable, the date on which one of the CBs was dissolved or removed from the Scottish Charity Register (in the case of a SCIO).

Section 6 Community support

- Ministers need to be satisfied that there is, within your community, a sufficient level of support to justify the registration of your CB's interest in land (see section 38(1)(d) of the Act). CBs have, for example, gathered evidence of community support by having a petition signed by residents (see Section 1.5 of this guidance for further information).
- For a “timeous” application, Ministers expect to see at least 10% support, though in exceptional circumstances, less than 10% may be acceptable.
- For “late” applications, Ministers require to see a significantly greater level of support than the level expected for a timeous application (see section 39(3)(b) of the Act). Ministers have in previous applications accepted a level of 15% as sufficient evidence of community support for a late application.
- Your CB is required to provide evidence of your community's support to justify your registered interest in land.
- Your evidence of community support must be indicated within six months of the date when you submit your CB's application to register an interest in land to Ministers and that the approval of each of the members of the community must also be indicated within that period. Ministers will not take into account any community support which is indicated more than six months from the date of your CB's application to register a community interest in land (section 38(2A) of the Act). Thus, if your CB decides to demonstrate community support for your proposals using a petition list, each entry on the list must be within six months before the date when your application is submitted to Ministers.

Section 6.1

- You should indicate by marking a “X” in the relevant box whether your CB has secured the expected level of 10% community support to indicate approval of your registration of the interest in land to which this application relates.
- If your CB has less than this level of support you should explain in the text box why there is, within your community, a sufficient level of support to justify the registration (see section 38(2)(b) of the Act).



Section 6.2

- Ministers require to see the evidence of your support for your CB's application to register an interest in land and how that support was achieved.
- At 6.2(A) your CB is required to provide evidence and details of the support your CB has obtained from your community in support of your application to register an interest in land to which this application relates.
- Your CB's evidence can include a petition list which has been obtained as evidence of your community's support. A large number of CBs find a petition list an easy way to gather and record support. In making a petition list, your CB must clearly inform the members of your community what they are signing their support to.
- The petition list can be backed up by an Edited Electoral Register for your area which confirms names of members in your "community".
- You may also consider obtaining a letter or email from your local Electoral Registration Office which shows the number of eligible members of your community in the Full Electoral Register. This can be used along with the number of eligible voters who support your CB's proposals to show the overall percentage of the members of your community who have confirmed their support for your application.
- At Section 6.2(B) you are required to provide a breakdown of the level of support you have secured for your CB's application.
- You should divide this support into three sections:
 - the total number of members in your community;
 - the total number of members of your community who have indicated their approval for the registration;
 - the overall percentage of members of your community who have indicated approval for the registration.
- You should be able to calculate these figures from the petition list or other means you have used to gather the support of your community and information you have gathered from the Full Register or evidence from your local Electoral Registration Office.
- Where your CB has used the Full Register you may find it helpful to cross reference the codes of the voters with your own supporters. You should check that your CB's petition list or other means to show support does not include names that have been recorded twice or names of supporters from outwith the area of your defined "community".

Section 7 Proposals for the land

83. Section 7 of the application form is concerned with proposals for the land and the sustainable development of the land that is the subject of your CB's application.

Background

84. Ministers must be satisfied that the registration of your CB's community interest (and also the exercise of your CB's right to buy) is compatible with "furthering the achievement of sustainable development" (as required by Sections 34(4) and 51(3)(c) of the Act). Sustainable development is an integrated long-term approach to economic, social and environmental issues. The information which your CB provides in your application to register a community interest in land, or your plans for the future development and management of the land you are seeking to acquire at the right to buy stage, will be crucial in determining whether this criterion is met.

85. Applications to register a community interest in land have the best chance of success if they explicitly address the likely overall impacts of land registration in terms of environmental, economic and social benefits. Development, in the wider sense, to deliver these benefits would not be ruled out because the gain from the development did not meet all of the following three benefits: environmental, economic and social. The Act does not require that every element of any planned development be compatible with the achievement of sustainable development, but that the acquisition of the land as a whole should be compatible with furthering sustainable development. Proposals for developments that might result in lasting significant environmental damage are likely to fail to meet this legislative requirement. **This may also be the case in relation to proposals to prevent any development or those that aim simply to maintain the status quo. These will be construed as not being compatible with furthering sustainable development.**

86. We suggest that the best way for you to consider sustainable development so that you can satisfy the requirements of the Act is to look at the positive economic, social and environmental consequences of your CB's aspirations. One of the policy aims of the community right to buy is to allow communities greater opportunities to achieve sustainable development. Your CB's application should show how this would be an outcome of the proposed purchase. You could produce a long-term plan to demonstrate how you would achieve this. You should consider how your CB's aspirations can be enhanced for the benefit of your community. Your CB may wish to obtain advice and expertise relevant to your aspirations. For example, if you are registering land for amenity purposes, you may wish to contact Scottish Natural Heritage for advice on biodiversity and land management (contact details at Annex B).



87. The Scottish Government’s approach to sustainable development is set out in the document “Meeting the Needs - Priorities, Actions and Targets for Sustainable Development in Scotland” (available at <http://www.gov.scot/Publications/2002/04/14640/4040>).

88. Your CB may also wish to contact your local authority’s sustainable development staff through the Sustainable Scotland Network at www.sustainable-scotland.net.

89. As the Act is part of a wider programme of land reform measures intended to support, maintain and develop communities throughout Scotland, it is expected that the exercise of your community right to buy should deliver lasting benefits to your community.

Section 7.1

- Ministers need to be satisfied that your CB’s proposals are compatible with furthering the achievement of the sustainable development of the land.
- You should explain your proposals for the land to which your CB’s application to register a community interest in land relates.
- It is up to your CB to set out your proposals for the land you are seeking to register an interest in. You should consider how, given the chance to register an interest in the land, and the opportunity to purchase it, should the landowner want to sell it, it could make a real difference to your community. You should set out your proposals for your community: not the ideas that another CB has developed for its community, or ideas for projects that you think Ministers look favourably on. They should be proposals that meet your community’s needs in the short, medium and long terms, and for which there is a clear need for them in your community.

Section 7.2

- This section relates to how the acquisition of the land to which your CB’s application relates is compatible with furthering the achievement of sustainable development. For further information on “sustainable development” you should consult paragraphs 84-89 of this guidance.
- You should explain how the acquisition of the land to which your CB’s application relates is compatible with furthering the achievement of sustainable development.
- You should address these points in terms of social, environmental and economic development, as relevant to your proposals.

- You may wish to provide an introductory overview of your CB’s proposals, and then discuss your proposals under the headings of “social development” and the benefits that these proposals for the land will bring; “environmental development” and the benefits that these proposals for the land will bring; and “economic development” and the benefits that these proposals for the land will bring.
- Social development could, for example, include:
 - access to participate in and benefit from your project;
 - clear community benefits;
 - the direct improvement or creation of specified local services and infrastructure in the short term (including services/infrastructure such as social housing, power, retail and petrol, access to information, recreation facilities or other local amenities, etc.);
 - the contribution to the reduction of social disadvantage in the community (i.e. is the project, or part of it, specifically targeted at providing facilities normally expected to be available within a community).
- Environmental development could, for example, include:
 - the enhancement of the sustainable use of land resources (e.g. contribute to local environmental sustainability, improved deer management, responsible woodland development, agri-environmental schemes, etc.);
 - the improvement or provision of new amenity for locals and visitors in terms of access, interpretation and education;
 - the enhancement of natural resources, wildlife or habitats (e.g. through developing woodlands, implementing a Habitat Action Plan, Biodiversity Action Plan, etc.);
 - short term negative impacts that are outweighed by longer term advantages to the community.
- Economic sustainability could, for example, include:
 - the creation of new jobs or to protect existing local jobs (eg employed directly by your CB, or by a third party who is contracted or supported by your project);
 - the diversification of the economic base of the area by the introduction of new activities (e.g. completely new sector such as information technology; adding value to local food or wood products);
 - the generation of new surplus income in the community, which would be available for reinvestment in other projects, or stem the loss of income from the community.



Section 8 Public interest

90. Ministers need to be satisfied that the registration of your CB's community interest in land is in the public interest. Section 38(1)(e) of the Act does not define "public interest". Ministers will determine, on a case-by-case basis, whether your CB's particular proposal is in the public interest. It is not a simple matter to decide what might be in the public interest.

- Your CB should consider how your proposed registration is in the public interest.
- Your CB should show how your proposed acquisition would bring real benefits to the **whole** of your community and not only to individual members of your CB.
- Your CB should consider and show that such benefits are not outweighed by any disadvantages to the wider community, the environment or the economy, or are not disproportionate to the degree of any harm to private interests as a result of the registration and the exercise of the right to buy.

91. An application may be refused on public interest grounds where your CB's proposals would be disadvantageous to your community. For example, if your CB attempted to acquire salmon fishings managed by a local angling club, you might fail to satisfy the public interest test if the outcome of your right to buy was to restrict access to that fishing. Alternatively, if your CB's application were to lead to substantial public benefits by widening access and improving management of a resource, it would be more likely that the public interest test would be satisfied.

92. An application may also be refused on public interest grounds where there is evidence to suggest that your CB was attempting to use your right to buy to subvert the public interest. This could be, for example, where an application proposed to subvert the outcome of the planning process. The planning system guides the future development and use of land in the long term public interest. It may result in decisions that are unfavourable for some communities. It would not, however, be in the public interest to allow the community right to buy process to be used to subvert the planning process.

93. In determining what is in the public interest, Ministers will also consider the wider public interest. This may include the interest of any sector of the public (however small), which, in the opinion of Ministers, would be affected by the exercise of your right to buy. Ministers do not see this as a measure to place the interests of your CB above the wider public interest. This is intended to protect the interests of distinct existing communities and groups other than the community which your CB represents. For example, your CB may be set up to represent a group of people who may vote in a ballot in favour of exercising a right to buy. However, it could be that a large number of other residents are opposed to the right to buy. If this was made known to Ministers, they would be bound to consider how the interests of that community would be affected before reaching a decision. Another example would be that if support for your CB's right to buy were marginal and a potential consequence of proceeding with your right to buy were to divide your community, Ministers might decide that the adverse effect of your CB's right to buy would outweigh the public interest in retaining an otherwise unified community. If Ministers consider the interests of a particular sector of the public against the wider public interest and conclude that these public interests are unfavourably affected, this does not, in itself, mean that the public interest test cannot otherwise be satisfied.

94. You should explain why your CB considers that it is in the public interest that the community interest in land to which your application relates should be registered.

95. If your CB is submitting a "late" application you are required to indicate the factors that you consider are strongly indicative that the interest in land is in the public interest.

96. In answering this question, you should consider the environmental, social, economic and other benefits that will be brought about by your CB's project.

Section 9 Declaration

97. Your CB is required to complete the declaration to this application form before you submit it to Scottish Ministers.

- Your CB's completed application form must be signed and dated by two board members, charity trustees, or committee members, as appropriate, on behalf of your CB, and who have been authorised by your CB. The signatories must state their position in your CB and provide their full names and addresses for the purposes of prevention and detection of fraud.



- If your CB makes or provides any inaccurate statement, provides inaccurate information, whether deliberate or accidental, or you knowingly withhold any information, you should be aware that these actions could result in Scottish Ministers deciding not to register your community interest in land.

98. You should **NOT** date your form **before** the date you receive your letter from Scottish Ministers stating that they are satisfied that the main purpose of your CB is consistent with furthering the achievement of sustainable development, or before your company has been registered with Companies House, the Office of the Scottish Charities Regulator, or the Financial Conduct Authority, as appropriate, otherwise your form will be returned to you.

On completion of your CB's application form

99. When you have completed your CB's application and have checked that you have attached all enclosures, and ensured that they are properly identified, you should send it to the Community Land Team at the address in Annex B. **We recommend that you keep a copy of your CB's application.**

1.9 What happens after your CB has submitted your application to register a community interest in land?

Initial checks

100. On receipt of your CB's application, the Community Land Team in the Scottish Government will undertake initial checks to ensure that it complies with the basic requirements of the Act (see section 37(11)). **These checks are not part of the detailed consideration of your application for registration purposes.**

101. Initial checks will determine whether your CB's application form, maps and other supporting documents have been completed correctly, or whether it is obvious that your CB's application would be one that would otherwise be rejected by Ministers without detailed consideration. Reasons could be, for example:

- you have not used the correct application form;
- you have made changes to the format of the application form (e.g deleted a question);
- your maps are not compliant;
- you have not completed a required part of the form;
- you have failed to provide sufficient evidence of community support;
- you may not have noted the name of the existing landowner or creditor in a standard security, etc.

102. If you fail to meet the basic requirements, your CB's application will not proceed any further, and all your papers will be returned to you. You will be notified by email or letter of the reason(s) for this action. This notification will state the defects in your application. At this time, your CB's interest will not be registered in the RCIL (see section 37(17) of the Act). You can amend your application and then re-submit it to Ministers.

103. Should your CB's application and supporting documents pass the initial checks, you should make yourself aware of the next steps in registering your community interest in land outlined in Annex A.

Next steps: timeous application

Procedures for timeous applications

Informing the landowner and creditor in a standard security of your CB's application to register an interest in land and the prohibition notice

104. After your CB's application and supporting documents have successfully passed the initial checks, Ministers will send a copy of your application and documents to the Keeper of the Register of Community Interests in Land (RCIL) and instruct the Keeper to enter your CB's details in the Register (section 37(7) of the Act). All information relating to your CB's application will be published and will be available in the RCIL (section 36(3) of the Act), with the exception of information relating to funding (section 36(4) of the Act). Personal information will also be redacted to comply with data protection legislation.

105. At the same time as sending a copy of your CB's application and supporting documents to the Keeper, Ministers will send a copy to the landowner and, if appropriate, any creditor in a standard security in the land. The landowner and where there is one, the creditor in a standard security, will also be given a notice which prohibits them from taking any action with a view to transfer of the land that is the subject of your CB's application (section 40 of the Act). This temporary prohibition is effective from the date of the Ministers' letter to these parties until the date Ministers approve or reject your CB's application.



106. At the same time as Ministers notify the landowner and where there is one, any creditor in a standard security with the right to sell the land, they invite the landowner and the creditor in a standard security the right to sell land to submit views on your CB's application, in writing, to Ministers (section 37(5)(b) and 37(5)(c) of the Act). The landowner has 21 days in which to respond. The creditor in a standard security with a right to sell the land is given the opportunity to notify Ministers whether they have taken steps to enforce the security (in terms of the Conveyancing and Feudal Reform (Scotland) Act 1970) (section 37(6) of the Act). They also have 21 days in which to respond. A copy of these invitation letters are also sent to your CB for information.

107. After Ministers receive views on your CB's application, they will send a copy of them to your CB (section 37(9) of the Act). Your CB then has 21 days in which to respond to Ministers with any comments. At this stage you will be notified of your CB's RCIL registration number (e.g. CBooooo1), which you should quote in all future communication about your case with Ministers.

108. These timescales may be affected by local and public holidays in the place where the interest is to be registered (section 67A refers). For the dates of public and local holidays you should consult your local authority, who determine them based on local tradition (not statutory authority) and after consultation with local business interests (public and local holiday timings do not affect the period of time specified in the timescale for the period of buying the registered land (section 56(3)(a) or (b), valuation (section 60(3) or appeals (sections 61-64)).

109. Where Ministers receive an application which does not disclose that missives have been concluded or an option conferred then the owner of the land (or a creditor in a standard security with a right to sell the land) must provide evidence of concluded missives or an option agreement to Ministers within 21 days of receiving a copy of the application.

110. Where there is an option agreement, the landowner must provide information on the date of the option agreement, whether the agreement can be extended, and if so, whether the agreement has been extended.

111. If an application is one that discloses that missives have been concluded or an option has been conferred, Ministers are not required to send a copy of the application to the owner or the creditor in a standard security with a right to sell the land. However, Ministers will need evidence of the concluded missives or the option conferred.

112. When Ministers have received all information relating to your CB's application, they will decide whether to approve your CB's registration or reject your application. From the date Ministers receive your CB's application to register a community interest in land, they have 63 days in which to send notice of their decision on whether your CB's interest should be entered or registered in the RCIL. There may be cases where the Ministers' decision letter is not issued within this period. This does not, however, affect the validity of their decision (section 37(19) of the Act). This decision letter will also include a notice which will contain the reasons for the Ministers' decision. The decision letter and notice will also be copied to the landowner and, if appropriate, any creditor in a standard security with the right to sell the land.

Appealing the Ministers' decision

113. A number of specified parties may choose to appeal to the sheriff against the Ministers' decision. Your CB may choose to appeal a decision not to approve the application to register an interest in land (section 61(2) of the Act) while the landowner or creditor in a standard security with the right to sell the land may wish to appeal a decision to register an interest (section 61(1) and 61(3A) of the Act). A person who is a member of the community may also wish to appeal a decision to approve the application to register an interest in land (section 61(3)(a)).

114. An appeal may be made by summary application to the sheriff in whose sheriffdom the land or any part of it is situated. An appeal must be lodged within 28 days of the date when Ministers decided on whether to enter your CB's community interest in land in the RCIL.

Next steps: late application

Procedures for late applications

115. Most of the procedures for a late application are the same as for a timeous application:

- (1) the application documents are copied to the Keeper to publish in the RCIL;
- (2) the application documents are copied to the landowner and where there is one, any creditor in a standard security with the right to sell the land;
- (3) a temporary prohibition is placed on the landowner and a creditor in a standard security with the right to sell the land.



116. However, there are a number of differences between the procedures for a late application and a timeous application. While the landowner, and where appropriate, the creditor in a standard security with the right to sell the land, is invited to provide comments, in writing, on your CB's application, within 21 days of Ministers sending an invitation to comment, **the landowners' and the heritable creditors' comments are not copied to your CB for comment, but only for information.** You should therefore ensure that your CB's application is robust and contains all the information required as you will not have a chance to provide any further information unless asked by Ministers to do so. Once Ministers have received all the information relating to your CB's application, they will decide whether to approve your registration or to decline your application.

117. From the date Ministers receive your CB's late application, they have **30 days (44 days if Ministers ask for further information from the landowner or creditor)** in which to send notice of their decision on whether they have approved or rejected it (section 39(2)(b)(ii) of the Act). This notice will contain reasons for the Ministers' decision. The decision letter and notice is copied to the landowner and any creditor in a standard security with the right to sell the land, as well as the Keeper of the RCIL. There may be cases where the Ministers' decision letter is not issued within the 30 day period. This does not, however, affect the validity of the Ministers' decision (section 37(19) of the Act).

118. These timescales may be affected by local and public holidays in the place where the interest is to be registered (section 67A refers). For the dates of public and local holidays you should consult your local authority who determine them based on local tradition (not statutory authority) and after consultation with local business interests (Public and local holiday timings do not affect the period of time specified in the timescale for the period of buying the registered land (section 56(3)(a) or (b), valuation (section 60(3) or appeals (sections 61-64)).

119. Should Ministers reject your CB's late application, you can still apply to register an interest in the land. You can do this against the new owner once the land has been transferred into their ownership, or against the present owner if the land transfer is not concluded. This application will be a timeous application unless the new owner immediately offers the land for sale, in which case it will again be a late application.

Appealing the Ministers' decision

120. Parties may choose to appeal to the sheriff against the Ministers' decision. Your CB may choose to appeal a decision not to approve the application to register an interest in land (section 61(2) of the Act) while the landowner or creditor in a standard security with the right to sell the land may wish to appeal a decision to register an interest (section 61(1) and (3A) of the Act). A person who is a member of the community may also wish to appeal a decision to approve the application to register an interest in land (section 61(3)(a)).

121. An appeal may be made by summary application to the sheriff in whose sheriffdom the land or any part of it is situated. An appeal must be lodged within 28 days of the date when Ministers decided on whether to enter your CB's community interest in land in the RCIL.

Submission of a timeous application which is in fact a late application

122. When your CB's application and supporting documents are sent to the landowner or a creditor in a standard security with the right to sell the land for comments, these parties should inform Ministers if they have taken steps to offer the land for sale and indicate that your CB's application is actually "late" (section 39(2) of the Act).

123. Ministers may then ask your CB for further information. You may be asked to provide a time-line of the steps taken by your CB to show the relevant work undertaken to prepare an application to register an interest in land, or the relevant steps undertaken with a view to acquire such land being used for purposes that are the same as those proposed for the land in relation to which the application relates. This time-line should include evidence of dates together with actions undertaken. You may wish to attach additional information to support these actions, such as attaching minutes of meetings which refer to them. You will not, however, be asked for comments on the landowner's views. The timescale for the Ministers' decision will be 30 days (or 44 days if Ministers request additional information from the landowner or creditor) (see below) from the date your CB's application was received (instead of the 63 days for a timeous application).

124. If Ministers require further information to establish whether an application is in fact a late application, they can request that information from the landowner, creditor in a standard security with the right to sell the land, or any person they consider is able to provide them with it. The requested information is to be provided to Ministers within 14 days of their request being made (section 39(2)(aa) and (3B) of the Act).



125. Should Ministers reject your CB's late application, your CB can still apply to register an interest in the land. You can do this against the new owner once the land has been transferred into their ownership, or against the present owner if the land transfer is not concluded. This application will be dealt with as a timeous application unless the new owner immediately offers the land for sale, in which case it will again be a late application.

1.10 Mediation

126. Where your CB is seeking to register an interest in land or is exercising its right to buy, a number of interested parties may request Ministers take such steps as they consider appropriate for the purpose of arranging, or facilitating the arrangement of mediation in relation to the proposed registration of the interest in land or the exercise of the right to buy.

127. The interested parties that may make the request to Ministers are: the owner of the land; any creditor in a standard security with the right to sell the land in the land or any part of the land; and your CB (section 97Z1(3) of the Act refers).

128. These parties may request Ministers to take the following steps or arrangements in respect to appointing a mediator; making payments to mediators in respect of services provided; and reimbursing reasonable expenses of mediators.

129. You should contact the Community Land Team in the Scottish Government if you have any questions relating to mediation.

1.11 Effect of your CB's registration

130. If Ministers decide to approve your CB's application to register an interest in land, they will direct the Keeper to enter your interest in the RCIL (section 37(20) of the Act). Your CB's interest is valid for a period of five years from the date Ministers approve your application (section 44(1) and (4) of the Act). As long as your CB's community interest in the land is registered, the landowner and any creditor in a standard security with the right to sell the land, are prohibited from transferring the land, or from taking any action with a view to a transfer, unless the transfer is specifically exempt in terms of section 40(4) of the Act. Steps which constitute action with a view to a transfer of land are set out in section 40(5) of the Act.

131. If a transfer is completed in terms of section 40(4) of the Act, i.e. it is a transfer exempt under the Act, your CB's registration will remain in effect and the prohibition on the registered land will apply to the new owner. The right to buy may then be "activated" by the new owner if they decide that they wish to sell or transfer the land.

132. The owner of the land or a creditor in a standard security with the right to sell the land, must notify Ministers that there has been an exempt transfer under the Act within 28 days of that action taking place (section 41(3) refers). If your CB is aware of an exempt transfer taking place you should inform the Community Land Team that you believe such an action has taken place. Action taken with a view to a transfer of the land (as described in section 40(1)(b) of the Act), could include oral notification to another party that the owner intended to sell the land. Evidence of an agreement would be required.

133. If the land that is the subject of your CB's registration is not a transfer exempt under the Act and is transferred without your knowledge and the landowner or creditor in a standard security has breached the prohibition (contrary to sections 37(5)(e) or 40(1) of the Act), your CB may apply to the Lands Tribunal for Scotland (under section 50 of the Act) within 10 years of the breach taking place for a determination on whether the landowner or creditor has acted in breach of the prohibition. Where the Lands Tribunal for Scotland determines that a breach has occurred, their determination will be notified to Ministers, who will then give notice of the determination to each CB with a registered interest in the land (or who had applied to register an interest), the owner, any creditor in a standard security with a right to sell the land and to the Keeper. When this notice is given the landowner is deemed to have given notice under section 48(1) of the Act that a transfer of the land is proposed.

1.12 Duration, deletion and re-registration of your CB's interest in land

134. The duration, re-registration and deletion of a CB's community interest in land are covered by sections 44 to 46 of the Act.

Duration of registration

135. Your CB's registered interest is valid for a period of five years from the date Ministers approve your application to register a community interest in land (section 44(1) and (4) of the Act).



Deletion of interest

136. If, at any time, your CB decides to delete or to withdraw your registered interest or your right to buy if that right is activated but the transfer has not yet completed, your CB is required to notify Ministers of that fact in writing (section 54(1) of the Act). On receipt of this information, Ministers will direct the Keeper to delete your CB's interest from the RCIL. Ministers will also inform the landowner and any creditor in a standard security of the deletion of your CB's interest. Separately, if Ministers are satisfied (in terms of section 45 of the Act) that there has been a change in any matter relating to your community interest in land to the extent that the registration would not have been approved initially, they shall direct the Keeper to remove the registered interest after having first obtained views from both your CB and the landowner.

137. Following deletion of your CB's interest, the landowner is free to offer the land for sale unless there is another registered interest on that land. This could occur where there is more than one registered interest in the land or a subsequent registration is approved by Ministers.

After your CB's interest has been registered

138. After Ministers have registered your CB's community interest in land, you have a number of duties to undertake.

Change of official registered or principal office of your CB/address for correspondence

139. If the contact information for your CB changes after your CB's community interest in land has been registered, you **must** inform Ministers of any changes as soon as possible thereafter (section 44A(2) refers). This information may relate to the change of name of your CB, a change of registered office (where your CB is a company limited by guarantee) or principal office where your CB is a SCIO or a BenCom, or the address to which all correspondence is sent.

Making changes to your CB's constitution

140. If you want to make changes to your CB's compliant Articles of Association (if your CB is a company limited by guarantee), a compliant constitution (if your CB is a Scottish charitable incorporated organisation), or compliant registered rules (if your CB is a community benefit society), you must inform Scottish Ministers of any changes that you have made. This includes changes to secure charitable status.

1.13 Re-registration of your CB's community interest in land

141. Ministers will notify your CB that your CB's registered interest is due to expire 12 months before the expiry date of your registered interest. To ensure that your CB's registered interest remains in effect, you can apply at any time from six months prior to the expiry date of your CB's registration to re-register that interest for a further five years (section 44(2) of the Act). **You must ensure that your CB submits your application to re-register your interest in land in sufficient time and before your registered interest expires. Ministers have no powers to accept applications to re-register an interest which are not submitted before the expiry of your CB's existing registration.** You should note that there is no late application process when seeking to re-register a community interest in land.

142. If your CB's existing registered interest has recently expired and you still want to register an interest in all or part of the land that you had registered, you will need to submit a fresh application to register an interest in land.

143. If your CB's previous registered interest expired or was deleted for any reason, your CB may register an interest in the same land at a later date (section 46 of the Act). Should you attempt to register an interest in the same piece of land where Ministers refused you a previous right to buy or your CB did not exercise that right, you should consider how you can show that, given another opportunity, a further registered interest would be likely to lead to the right to buy being exercised and how it would be in the public interest. Where there were no apparent reasons as to why your CB's registered interest did not proceed to the right to buy when a previous opportunity arose, it is likely that further questions would be raised as to the intent of any new application.

The process to re-register a community interest in land

144. Ministers will contact your CB 12 months in advance of the expiry date of your CB's registration to ask you whether you wish your registration to continue beyond its expiry date and invite you to submit an application to re-register your interest (section 44(5A) and (5B)). If you want to re-register your interest in land, the Community Land Team will be happy to discuss the process with you. If you do not wish to re-register your CB's registration or fail to submit your completed application before the date on which your registration expires, your interest will be extinguished on the date of its expiry. If your CB does not wish to re-register your interest, you may also wish to consider whether your CB wants to extinguish it before it expires.



145. When you are re-registering your CB's community interest in land, it is important that your CB continues to show intent to renew your registration and that you are still committed to purchasing the registered land when it is offered for sale. Your CB will be required to demonstrate that there is a continued level of support within your defined community which is sufficient to justify re-registration (section 38(1)(d) of the Act).

146. It is expected that when you are re-registering your CB's community interest in land that there will be no significant changes to the information that was included in your application to register a community interest in land. If there are significant changes (e.g. your CB's plans for the land have significantly changed), you will need to ensure that these changes are clearly stated in your application to re-register a community interest in land. If you have any questions, you should contact the Community Land Team about the process to re-register your interest in land.

147. It is also expected that when you are re-registering your CB's community interest in land that there will be no changes to your organisation's AofA, registered rules, or constitution depending upon the type of your CB, as any changes will have been notified to Ministers.

148. To re-register your CB's community interest in land, you will be required to complete the application form which has the title "Application to re-register a community interest in land" (see section 1.13 of this guidance document). It is available from the Scottish Government's website at <http://www.gov.scot/Topics/farmingrural/Rural/rural-land/right-to-buy/Community/applicationform>.

Application to re-register a community interest in land

149. You should note that if any information has changed since your CB submitted your previous application to register (or re-register) an interest in land, you must tell Scottish Ministers. In your CB's application form you are required to mark an "X" in the relevant tick boxes to indicate whether there have been any changes. If there have been any changes you must set these out. Failure to inform Ministers of these changes may result in Scottish Ministers declining to consider your CB's application to re-register your community interest in land.

- 150.** Your CB will need to submit accompanying information with your application. This includes a copy of your governing documents, maps and drawings which describe the land to which your application relates and maps and drawings which describe the area of your community to which your CB relates.
- 151.** The application form to re-register a community interest in land can be downloaded and completed electronically or downloaded and completed manually using black or blue ink and in capital letters. If you are including additional pages, you should ensure that they are clearly marked, showing the question number they refer to (e.g. “Section 3.4 – see Annex A”). Your CB should ensure that you also refer to the Annex in your answer given in the application form.
- 152.** The content and layout of the “Application to re-register a community interest in land” is laid out in a similar way to the “Application to register a community interest in land” form.
- 153.** The application form to re-register a community interest in land is divided into eight sections which each focus on a particular topic. These are: who is applying; details of who is applying; the land to be registered; ownership & interests; community support; proposals for the land; public interest; and declaration.
- 154.** Your CB’s completed application form to re-register a community interest in land must be signed by two board members, charity trustees, or committee members, as appropriate, on behalf of your CB, and who have been authorised by your CB. They must also provide their full names and addresses for the purposes of prevention and detection of fraud.
- 155.** If your CB makes any inaccurate statement, provides any inaccurate statement, provides inaccurate information, either deliberate or accidental, or your CB knowingly withholds any information, these actions could result in Scottish Ministers deciding not to re-register your community interest in land.
- 156.** Your CB’s application form and supporting documents will appear in the Register of Community Interests in Land (see also Section 1.6 of this guidance).
- 157.** Your CB’s attention is drawn to Section 8 – Declaration of the form which provides further administrative processes which your CB must understand when submitting your application form to re-register a community interest in land to Scottish Ministers.



Maps, plans or drawings

158. Maps, plans or drawings accompanying your CB's application form to re-register a community interest in land must comply with Part 1 of Schedule 1 and Part 2 of Schedule 1 of 2015 Regulations (see Annex B). In particular:

- Maps should be used to clearly identify the boundaries of the community and land to be re-registered.
- All maps and drawings should be made to a metric scale, corresponding to a scale used by the Ordnance Survey for that land, show a north point and give OS Grid References to enable the location to be fixed accurately.
- Metric measurements to one decimal place (e.g. 8.2 metres, 2.3 ha) should be used. Imperial measurements (e.g. 1 inch to 8 feet) should not be used.
- Maps should contain sufficient details of the land surrounding the area in which you want to re-register an interest (such as fences, houses, etc.) to enable its position to be accurately determined.
- Drawings may be used to provide accuracy of the stated location and dimensions of the land to be re-registered.
- Drawings which simply show a perimeter cannot be taken as accurate. They should include diagonal measurements, angles at each change of boundary direction and National Grid co-ordinates supported by tape measure or Global Positioning System (GPS) along each boundary.
- Undefined boundaries should be accurately fixed to existing detail by metric measurements shown on the map/drawing.
- Maps showing the location of the land in relation to a settlement should show the boundaries of the postcode units. These should also be detailed in the description of the land given on the application form.
- Any salmon fishings or mineral rights subject to your CB's application should be clearly marked on your map, showing boundaries, etc. as above.
- **Maps, plans or other drawings that do not comply with Schedule 1 of the 2015 Regulations will be returned to you (Annex B). This may result in a delay to you seeking to re-register your CB's community interest in land.**

Completing the application form to re-register a community interest in land: the “Application to re-register a community interest in land”

Section 1 Who is applying

Section 1.1

- You are required to state the name of your CB that is applying to re-register a community interest in land.
- You should ensure that the name of your CB is the same as that registered with Companies House (for a CLBG), the Office of the Scottish Charities Regulator (for a SCIO), or the Financial Conduct Authority (FCA) (for a BenCom), as appropriate.

Section 1.2

- You should state your CB’s RCIL registration number that applies to the land to be re-registered (e.g. CB00001).

Section 2 Details of who is applying

- You should select the appropriate “Yes”/“No” box to indicate whether there have been any changes to your CB’s details that you provided in your CB’s previous application. This includes changes to your CB’s office or contact details; your CB’s membership information, or your definition of the “community” to which your CB relates.
- If there have been changes to the information you submitted in respect of the following sections of your “Application to register a community interest in land”, you must select the “Yes” box and provide full details of the changes in the relevant section.
 - **Section 2.1** – a change to the official registered or principle office of your CB.
 - **Section 2.2** – a change to your CB’s address for correspondence in relation to the community right to buy process.
 - **Section 2.3** – a change to the type of CB that you were constituted as and your CB’s official number.
 - **Section 2.4** – a change to the written definition of your “community” as set out in your CB’s governing document.
 - **Section 2.5** – you must submit one or more maps or drawings which show your “community” as set out in your CB’s governing document. Your CB’s maps or drawings must be prepared in accordance with Part 2 of Schedule 1 of the 2015 Regulations (see Annex B). You must also confirm the total number of maps or drawings that you are submitting that show the area of your “community”.



- **Section 2.6** – a change to (A) the total number of members in your CB; (B) the breakdown of your membership by membership types, as defined in your CB’s AofA, registered rules or constitution, as applicable; and (C) the membership details of your members (ie. the names, addresses, and membership type of all your CB members, as defined in your CB’s AofA, registered rules, or constitution).
- If you selected “Yes” to any of these sections you should provide full details of the changes against the appropriate section of the application form.
- Even if you selected “No” to all of these sections, your CB is still required to include one or more maps or drawings, as set out in Section 2.5. You should also be aware of the requirement for maps or drawings at Section 3.5 of the application form to re-register a community interest in land.

Section 3 The land to be registered

- You should select the appropriate “Yes”/“No” box to indicate whether there have been any changes to the details of the land your CB wishes to re-register your interest in since your CB’s previous application. This relates to the nature or description of the land to which the application relates; any interests, burdens, restrictions or planning permission affecting the land; or the nature and extent of the community’s connection with the land.
- If there have been changes to any of the following you must select “Yes” and provide full details of the changes in the relevant section.
 - **Section 3.1** – a change to the type(s) of land to which your CB wishes to re-register your interest in.
 - **Section 3.2** – a change to the estimated area of the land or land in respect of which the salmon fishings or mineral rights are exigible to be re-registered.
 - **Section 3.3** – a change in the county in which the land or land in respect of which the salmon rights or mineral rights are exigible are located.
 - **Section 3.4** – a change to the written description of the land you are seeking to re-register an interest in.
 - **Section 3.5** – you must submit one or more maps, plans or other drawings which describe the land to which your CB’s application relates. Your CB’s maps, plans or other drawings must be prepared in accordance with Part 1 of Schedule 1 of the 2015 Regulations (see Annex B). You must also confirm the total number of maps, plans and drawings that you are submitting which describe the land to which this application relates.
 - **Section 3.6** – a change to whether your application is to re-register an interest in salmon fishings which are owned separately from the land of which they are exigible.

- **Section 3.7** – a change to whether your application is to re-register an interest in mineral rights which are owned separately from the land in which they are exigible.
- **Section 3.8** – whether there are any changes to any of the following five situations that apply to the land your CB is seeking to re-register an interest in: planning permission, an outstanding planning application relating to the land; the suitability of the land as being indicated for development in the local authority’s local development plan; whether the land is subject to a compulsory purchase order; or to any burden(s) on, or restrictions on use of, the land.
- **Section 3.9** – a change to your defined community’s connection with the land your CB is seeking to re-register an interest in.
- If you selected “Yes” to any of these sections you should provide full details of the changes against the appropriate section of the application form.
- Even if you selected “No” to all of these sections, you are still required to include one or more maps, plans or drawings, as set out in Section 3.5. You should also be aware of the requirement for maps or drawings at Section 2.5 of the application to re-register a community interest in land.

Section 4 Ownership & interests

- You should select the appropriate “Yes”/“No” box to indicate whether there have been any changes to the land ownership details you provided in your CB’s previous application. This relates to information on the details of the owner of the land to which your CB’s application relates; the details of any creditor in a standard security with a right to sell the land to which this application relates or details of persons with legally enforceable rights in the interests in the land to which this application relates.
- If there have been any changes to any of the following you must select “Yes” and provide full details in the relevant section.
 - **Section 4.1** – a change to the contact details of the owner of the land to which the application relates. If the owner’s details are unknown or cannot be found, you should proceed to Section 4.3.
 - **Section 4.2** – a change to the contact details of the owner if there is more than one owner.
 - **Section 4.3** – a change in the details of those names and addresses of all persons who have legally enforceable rights and interests in the land to be re-registered.
 - **Section 4.4** – you should set out what checks have been carried out, (and by whom and when) to establish who owns the land and whether there are any creditors in a standard security with a right to sell the land.



- **Section 4.5** – if the owner or any creditor in a standard security with right to sell the land is unknown or cannot be found, your CB should provide details of all the steps taken in accordance with section 37(4) of the 2003 Act, to identify them. Section 37(4) requires your CB to give public notice of your application to register a community interest in land or application to re-register a community interest in land where the owner or creditor is unknown by giving public notice of the application. Please refer to regulation 6 and Schedule 4 of the 2015 Regulations for further details of the required public notice (see Annex B).
- If you selected “Yes” to any of these sections you should provide full details of the changes against the appropriate section of the application form.
- If you selected “No” to all of these sections you should proceed to Section 5.

Section 5 Community support

159. Your CB **must** provide current evidence of sufficient community support for your proposals. Your CB is expected to demonstrate that it has achieved at least 10% support for your CB to re-register your interest in land. CBs have, for example, gathered evidence of their community support by having a petition signed by residents.

160. Your CB’s evidence of community support must be gathered within six months of the date when you submit your CB’s application to re-register a community interest in land to Ministers and that the approval of each of the members of the community must also be dated within that period. Ministers will not take into account any community support which is indicated more than six months from the date of your CB’s application to re-register a community interest in land (section 38(2A) of the Act). Thus, if your CB decides to demonstrate community support for your proposals using a petition list, each entry on the list must be indicated within 6 months of the date your application is submitted to Ministers.

Section 5.1

161. Ministers need to be satisfied that there is, within your community, a sufficient level of support to justify the re-registration of your CB’s interest in land (see section 38(1)(d) of the Act).

162. For re-registering an interest in land, Ministers expect to see at least 10% support, though in exceptional circumstances, less than 10% may be acceptable.

- You should select the appropriate “Yes”/“No” box to confirm whether 10% of the members of your community have indicated approval of the re-registration of the interest to which your CB’s application relates.
- If you selected “No”, you should explain why your CB considers that you have a sufficient level of support to justify the re-registration of your CB’s community interest in land.

Section 5.2

163. Ministers require to see the evidence of your support for your CB’s application to re-register an interest in land and how that support was achieved.

- At section 5.2(A) your CB is required to provide evidence and details of the support your CB has obtained from your community in support of your application to re-register an interest in land.
- Your CB’s evidence can include a petition list which has been obtained as evidence of your community’s support. A large number of CB’s find a petition list an easy way to gather and record support. In making a petition list, your CB must clearly inform the members of your community what they are signing their support to.
- A petition list can be backed up by an Edited Electoral Register of your area which confirms names of members of your “community”.
- You may also consider obtaining a letter or email from your local Electoral Registration Office which shows the number of eligible voters of your community in the Full Electoral Register. This can be used along with the number of eligible voters who support your CB’s proposals to show the overall percentage of the members of your community who have confirmed their support for your application.
- At section 5.2(B) you are required to provide a breakdown of the level of support you have secured for your CB’s application.
- You should divide this support into three sections:
 - the total number of members in your community;
 - the total number of members of your community who have indicated approval for the re-registration;
 - the overall percentage of members of your community who have indicated approval of the re-registration.
- You should be able to calculate these figures from the petition list or other means that you have used to gather the support of your community and information you have gathered from the Full Register or evidence from your local Electoral Registration Office.



- Where your CB has used the Full Register you may find it helpful to cross reference the codes of the voters with the names of your own supporters. You should check that your CB's petition list or other means to show support does not include names that have been recorded twice or names of supporters from outwith the area of your defined "community". Ministers will not include these as evidence that your "community" supports your CB's application.

Section 6 Proposals for the land

164. Section 6 of the application form to re-register a community interest in land is concerned with your CB's proposals for the land and the sustainable development of the land that is the subject of your application.

165. For more information on sustainable development you should refer to paragraphs 84 to 89 of this guidance document.

- You should select the appropriate "Yes"/"No" box to indicate whether there have been any changes to your CB's proposals for the land that your CB wishes to re-register your interest in since your previous application or to indicate that the information which demonstrates whether the acquisition of the land by your CB is compatible with furthering the achievement of sustainable development.
- If there have been any changes to any of the following sections you must select "Yes" and provide full details:
 - **Section 6.1** – a change to your CB's proposals for the land to which your CB's application relates.
 - **Section 6.2** – a change to how the acquisition by your CB of the land to which your application relates are compatible with furthering the achievement of sustainable development.
- If you selected "Yes" to any of these questions you should provide full details of the changes against the appropriate section of the application form.
- If you selected "No" you should proceed to Section 7.

Section 7 Public interest

166. Ministers need to be satisfied that the re-registration of your CB's community interest in land is in the public interest (sections 38(1)(e)). Section 38(1)(e) of the Act does not define "public interest". For further information on "public interest" you should consult paragraphs 90 to 93 of this guidance document.

167. In answering this question, your CB should consider the environmental, social, economic and other benefits that will be brought about by your proposals.

- You should explain why your CB considers that it is in the public interest that the community interest in land to which your application relates should be re-registered.

Section 8 Declaration

- Your CB is required to complete the declaration to this application form before you submit it to Scottish Ministers.
- Your CB's completed application form must be signed and dated by two board members, charity trustees, or committee members, as appropriate, on behalf of your CB, and who have been authorised by your CB. The signatories must state their position in your CB and provide their full names and addresses for the purposes of prevention and detection of fraud.
- If your CB makes or provides any inaccurate statement, provides inaccurate information, whether deliberate or accidental, or you knowingly withhold any information, you should be aware that these actions could result in Scottish Ministers deciding not to re-register your community interest in land.

On completion of your CB's application form to re-register a community interest in land

168. When your CB has completed your application form to re-register a community interest in land and checked that you have attached all enclosures, which should be properly identified, you should send it to the Community Land Team at the address in Annex B.

We recommend that you keep a copy of your CB's application.

What happens after your CB has submitted your application to re-register a community interest in land?

169. Ministers will consider whether your CB's completed application to re-register your community interest in land meets the requirements of section 38 of the Act.



170. Your CB's application to re-register a community interest in land will be treated in the same way as your application to register a community interest in land (section 37 of the Act). The process to re-register an interest in land involves:

- sending the application documents to the landowner and, where there is one, the creditor in a standard security with the right to sell the land and inviting their views (within 21 days of receiving an invitation from Ministers);
- copying any views received to your CB and giving you 21 days in which to respond to an invitation from Ministers (timescales may vary if there is a local or public holiday in the area where your CB's application is being made).

171. Ministers will consider your CB's completed application to re-register a community interest in land and any representations from the landowner and any creditor in a standard security with the right to sell the land. If Ministers decide that your CB's registration will continue, they will instruct the Keeper to renew your registered interest in the RCIL for a further five years. Your CB's renewed registration will continue for five years from the date your initial registration would otherwise have expired.

Appealing the Ministers' decision

172. As for the process to register an interest in land, a number of specified parties may choose to appeal to the sheriff against the Ministers' decision. Your CB may choose to appeal a decision not to approve the application to re-register an interest in land (section 61(2) of the Act) while the landowner or creditor in a standard security with the right to sell the land may wish to appeal a decision to register an interest (section 61(1) and (3A) of the Act). A person who is a member of the community may also wish to appeal a decision to approve the application to re-register an interest in land (section 61(3)(a)).

173. An appeal may be made by summary application to the sheriff in whose sheriffdom the land or any part of it is situated. An appeal must be lodged within 28 days of the date when Ministers decided on when to enter your CB's community interest in land in the RCIL.

1.14 Exercising your CB's community right to buy

An application that was a “timeous” application

174. In order for your CB to exercise your right to buy, the landowner or the creditor in a standard security with a right to sell the land must advise both Ministers and your CB, in writing, of their intention to sell the registered land (section 48(1)). Within seven days of the receipt of that letter, Ministers will (in accordance with section 49(2) of the Act), write to your CB seeking written confirmation that you wish to proceed to exercise your right to buy the land. You will then have 30 days in which to respond to Ministers.

175. If your CB does **not** wish to exercise your right to buy, your registered interest will be extinguished and the prohibition on the landowner or creditor with a right to sell the land will be lifted, leaving them free to sell the land.

176. If your CB does **not** respond within the 30-day period, Ministers will assume you do not wish to proceed with your right to buy (section 49(4) of the Act) and your CB's registration will be extinguished and the prohibition on the landowner or creditor with a right to sell the land will be lifted, leaving the landowner or the creditor free to sell the land.

177. From the date your CB confirms that you intend to proceed with your right to buy the land, you have:

- eight months in which to raise and pay the purchase price, conclude the transfer of the land and to take entry (section 56(3)(a) of the Act); or
- if there is an appeal pending on the valuation, two months from the date of the determination or abandonment of any appeal (section 56(3)(b) of the Act) in which to raise the purchase price, conclude the transfer of the land and to take possession of the land; or
- such longer period as may be agreed between your CB and the seller in which to raise the purchase price, conclude the transfer of the land and to take possession. Your CB must inform Ministers in writing if an extension to the eight month statutory period for the date of entry and payment is mutually agreed by your CB and the landowner. Your CB must inform Ministers within seven days of that agreement being made (section 56(3)(c) and (7) of the Act refers).



178. If you fail to conclude within these periods noted above your CB's right to buy will be extinguished and your CB's interest in land will be removed from the RCIL.

179. The right to buy under the Act only applies to registered land (section 47(2) of the Act). As the lotting arrangements for a sale may not have been made available to your CB before you are notified that the owner wishes to sell registered land, you may wish to consider whether you need to discuss the proposed sale with the owner. It may be that additional land has been included in the lot which your CB has not registered an interest in. If the owner wishes to dispose of this additional land, he may consider re-lotting the land or including it as part of the sale, by agreement. **Your CB does not have any right under the Act to buy the additional land nor are you required to do so.**

An application that was a “late” application

180. If your CB's application to register an interest in land was a “late” application, and your registered interest was approved by Ministers, then the owner of the land was deemed to have, on the date when Ministers registered that interest, given notice of their intention to sell the registered land under section 48(1) of the Act (section 39(4)(a) refers). In addition, your CB is deemed to have sent confirmation that it wishes to exercise its right to buy (section 39(4)(c) refers).

181. From the date when Ministers approved your CB's application, you have:

- seven months in which to raise and pay the purchase price, conclude the transfer of the land and to take entry (section 56(3)(a) of the Act); or
- if there is an appeal pending on the valuation, two months from the date of the determination or abandonment of any appeal (section 56(3)(b) of the Act) in which to raise the purchase price, conclude the transfer of the land and to take possession of the land; or
- such longer period as may be agreed between your CB and the seller in which to raise the purchase price, conclude the transfer of the land and to take possession. Your CB must inform Ministers in writing if an extension to the eight month statutory period for the date of entry and payment is mutually agreed by your CB and the landowner. Your CB must inform Ministers within seven days of that agreement being made (section 56(3)(c) and (7) of the Act refers).

182. If you fail to conclude within these periods noted above your CB's right to buy will be extinguished and your CB's interest will be removed from the RCIL.

183. The right to buy under the Act only applies to registered land (section 47(2) of the Act). As the lotting arrangements for a sale may not have been made available to you before your CB is notified that the owner wishes to sell registered land, you may wish to consider whether you need to discuss the proposed sale with the owner. It may be that additional land has been included in the lot which your CB has not registered an interest in. If the owner wishes to dispose of this additional land, he may consider re-lotting the land or including it as part of the sale, by agreement. **Your CB does not have any right under the Act to buy the additional land nor are you required to do so.**

Steps following confirmation that your CB wants to proceed with the right to buy

184. Once your CB has confirmed that you wish to exercise your right to buy (where your CB's application to register an interest in land had been a "timeous one"), or that Ministers approved your late application, Ministers will appoint an independent valuer to value the land and assess the value of that land and any moveable property. When the valuation price (the assessed value of the land and any moveable property) has been intimated, you will only be able to proceed to buy the land once you have met the requirements of section 51 of the Act (relating to the approval of your community and the consent of Ministers to your right to buy). You must seek the approval of your community by means of a ballot (the ballotter is appointed by and funded by Scottish Ministers) and secure the consent of Ministers. These stages are set out in Annex A.

1.15 Valuation of the land

185. Following your CB's confirmation that you wish to exercise your right to buy (where your CB's application to register an interest in land had been a "timeous" one), or where Ministers decided to approve your application (where your CB's application to register an interest in land was a "late" one) Ministers have seven days in which to appoint an independent valuer (section 59 of the Act).



186. The aim of this independent valuation is to ensure that the owner receives a fair price, the “market value” for the land. The definition of “market value” is set out at section 59(6) of the Act. The valuation will consist of the value of the land, including any buildings thereon, and any moveable property included in the sale. Section 59(7) of the Act provides for the matters the valuer may and shall take into account in assessing the value of the land. The valuer will take account of the known existence of any person who would be willing to buy the land at a price higher than others might be expected to pay. This reflects market value and ensures that the land and any moveable property are transferred at a fair price. Where your CB is only buying part of the land to be sold, the amount of any depreciation in the remaining land included in that lot will be considered too. The valuation report will include a brief statement that provides reasons for the valuation figure. Your CB should consider whether you need a separate valuation for your own purposes. Should you appoint your own valuer, you will need to meet your own costs – they **will not** be met by Ministers. Ministers will only pay the costs of their appointed valuer.

187. The appointed valuer acts on behalf of the Scottish Ministers, not for the parties involved in the purchase. The valuer will ask your CB and the landowner for written views on the value of the land and any moveable property (section 60(1) of the Act).

188. If the valuer receives comments from either party, they must send them to the other party to comment on. Thus, if the valuer receives a written response from the owner, then the valuer will invite your CB to provide views on that response on the owner’s comments. If you submit a written response, the valuer will send it to the landowner to comment on.

189. The valuer will then take into consideration all written comments received by the two parties when assessing the value of the land and any moveable property (section 60(1A) of the Act).

190. The valuer has eight weeks (or longer if agreed by Ministers in terms of section 60(3) of the Act), to provide Ministers, the landowner, and your CB with their assessment of the value of the land and any moveable property. **The price to be paid for the land and any moveable property is the price agreed between the CB and the owner of the land, or where no such agreement is reached, equal to the value assessed by the appointed valuer, or if the value of the land is the subject of an appeal to the Lands Tribunal for Scotland, the value which is determined by the appeal.**

Appeals against the valuation

191. Should your CB (or the owner of the land) be unhappy with the valuation of the land and any moveable property that has been valued with it, you (or the owner) may appeal the valuation (section 62 of the Act refers). Appeals are made to the Lands Tribunal for Scotland against the valuation carried out under section 59 of the Act. An appeal should be made within 21 days of the intimation of the valuation. If your CB appeals the valuation you must notify Ministers in writing of the appeal, within seven days of the date on which it is lodged.

192. The Lands Tribunal for Scotland may reassess the value of the land and any moveable property or both the land and any moveable property that was valued with it and substitute its own value. The Lands Tribunal has eight weeks from the conclusion of the appeal hearing in which to intimate its decision in writing (section 62(7) refers). If the Lands Tribunal considers that it is not reasonable to issue a written statement within eight weeks, it will notify your CB, the owner of the land, and Ministers when it will issue its written statement.

193. **The value determined by the Lands Tribunal for Scotland is the price you will have to pay for the purchase of the land (section 56(2)(b) refers).**

194. **Ministers are not a competent party to an appeal of the valuation as they only appoint the valuer (section 62(g) of the Act).** If your CB calls the valuer to appear as a witness on your behalf, your CB must meet any costs incurred. Any costs incurred will not be met by the Scottish Government.

1.16 Your CB's right to buy information form

195. Your CB must submit certain information to Ministers to allow them to assess whether you can proceed with your right to buy. This information must be provided in a specified form, which has the title "Section 51B Information Form". The information form is contained in Schedule 12 of the 2015 Regulations (see Annex B). The form is available from the Scottish Government's website at <http://www.gov.scot/Topics/farmingrural/Rural/rural-land/right-to-buy/Community/applicationform>.



196. The information form can be downloaded and completed electronically or downloaded and completed manually using black or blue ink and in capital letters. If you are including additional pages, you should ensure that they are clearly marked, showing the question number they refer to (e.g. “Section 2.2 – see Annex A”). Your CB should ensure that you also refer to the Annex in your answer given in the information form.

197. This information form has three sections: who is submitting the information; sustainable development; and declaration.

198. Your CB’s completed information form must be signed and dated by two board members, charity trustees, or committee members, as appropriate, on behalf of your CB, and who have been authorised by your CB. The signatories must state their position in your CB and provide their full names and addresses for the purposes of prevention and detection of fraud.

199. If your CB makes or provides an inaccurate statement, provides inaccurate information, whether deliberate or accidental, or you knowingly withhold any information, these actions could result in Scottish Ministers deciding not to give their approval to your CB proceeding with your right to buy.

200. Your CB’s attention is drawn to Section 3 – Declaration of the form which sets out further administrative processes which your CB must understand when submitting your “Section 51B Information Form” to Scottish Ministers. Your CB and your signatories should ensure that they understand the declaration before it is signed.

Section 1 Who is submitting the information

201. This section asks for details of your CB that is providing information to Ministers under Section 51B of the Act.

Section 1.1

- You are required to state the name of your CB that is providing information under Section 51B of the Act.

Section 1.2

- You should provide your CB's registration number from the Register of Community Interests in Land (RCIL) (e.g. CBooooo1).
- You will have received this number from Ministers after they sent your CB's application to register, a community interest in land to the landowner and to any creditor in a standard security with the right to sell land, as appropriate. You can also find your CB's number on the RCIL through the link: <http://rcil.ros.gov.uk/RCIL/default.asp?category=rcil&service=home>.

Section 1.3

- You should provide your CB's preferred contact address to which all correspondence relating to your CB's right to buy will be issued by Scottish Ministers. You should also provide your contact telephone number and an email address.

Section 1.4

202. As part of their consideration of whether your CB can proceed to exercise your right to buy, Ministers need to ensure that your CB continues to comply with section 34 of the Act (section 51(3)(b) refers). Ministers need to ensure that your CB – a company limited by guarantee (CLBG), a Scottish charitable incorporated body (SCIO), or a community benefit company (BenCom) – has a compliant Articles of Association (AofA) (if your CB is a company limited by guarantee), a compliant constitution (if your CB is a Scottish charitable incorporated organisation), or compliant registered rules (if your CB is a community benefit society). Your CB must continue to have certain matters in your AofA, constitution, or registered rules, as appropriate, and Ministers must continue to be satisfied that the main purpose of your body is consistent with furthering the achievement of sustainable development.

203. You should mark an “X” in the relevant box to confirm whether there have been any changes to your CB's governing documents (i.e. your CB's articles of association, constitution or registered rules, as appropriate). This is from the time that Ministers last saw your governing documents. This is most likely to have been the time when you applied to Ministers to register your CB's community interest in land (or re-registered your community interest in land). You may have made changes since that date, in which you will have notified Ministers of them.



Section 1.5

204. You should mark an “X” in the relevant box to confirm whether your CB has submitted your current governing document and your membership details.

205. When you provide your CB’s membership details, you should ensure that you include an up-to-date list of your members. This list should include the names and addresses of the members of your CB along with the membership types of each of member (e.g. ordinary member, junior member, associate member, as appropriate).

Section 2 Sustainable development

206. As part of their consideration of whether your CB can proceed to exercise your right to buy, Ministers need to ensure that what your CB proposes to do with the land your CB is seeking to purchase is compatible with furthering the achievement of sustainable development (section 51(3)(c) refers).

207. Further information on sustainable development is available in paragraphs 84 to 89 of this guidance document.

Section 2.1

208. You can demonstrate the sustainable development of your CB’s proposals for the land you are seeking to acquire in a number of ways. This includes business plans, feasibility studies or other types of documents. Some CBs may prefer to use one type of document for developing its plans over others.

209. Ministers want to ensure that CBs have flexibility in how they develop their plans using the skills that they have available to them and those of any contractors or other parties that they have appointed to assist them.

210. Ministers recognise that by the time CBs are submitting their “Section 51B Information Form” these documents are not in their final form, and are continuing to be developed. Ministers are therefore content to receive draft documents. However, the plans that are set out in them must not be significantly changed after Ministers have seen them as they will be approving (or declining) the exercise of your CB’s right to buy based on the detail contained within them.

211. CBs can submit additional information, as they consider appropriate, in support of their “Section 51B Information Form”. As noted in the information form, this may be a business plan, a feasibility study or other form of document which the CB considers is appropriate. Ministers will accept draft versions of these documents.

212. If your CB chooses not to submit any additional supporting information, you should ensure that the answers you provide in the information form are as robust as possible.

213. Ministers can request further information on your CB’s plans for the sustainable development of the land that are set out in the information form and any additional supporting evidence (section 51B(5) refers).

214. Ministers may, for example, request further information to clarify certain points, for example where there is insufficient detail for them to assess them. They may also ask for further information on points your CB has made. The extent of these questions will depend on the fullness and amount of detail in the information you have provided to Ministers.

215. If Ministers request further information from your CB, they will make that request within seven days of receiving your CB’s completed “Section 51B Information Form”. Your CB will then have seven days in which to provide the requested information to Ministers (section 51B(5) and (6) refers).

216. In answering this section of the information form, your CB should mark an “X” in all the relevant box(es) to indicate whether you have submitted additional information in support of the answers provided on this form, and the form in which this additional information takes.

Section 2.2

- You should explain how your CB’s proposals for the land your CB is seeking to acquire through the right to buy are compatible with furthering the achievement of sustainable development.
- Information on sustainable development is available at paragraphs 84 to 89 of this guidance document.



- In completing this section of the information form, you should consider:
 - How will your CB achieve the outcomes of your CB’s proposals?
 - Do you have financial projections for your CB’s proposals (short, medium and long term)? If so, what are they?
 - What funding sources are you considering using for the purchase of the land and development of your CB’s proposals for the land?
 - Will your CB’s proposals create economic benefits (e.g. new opportunities for jobs, training or volunteering, new activities, surplus income in the community or stem the loss of income from the community)?
 - Will your CB’s proposals create environmental benefits (e.g. sustainable use of the land, new amenities, enhancement of natural resources, wildlife or habitats)?
 - Will your CB’s proposals create social benefits (e.g. improve or create specified local services and infrastructure, reduce social disadvantage, provide facilities that are normally expected to be available in a community, and provide the majority of your community with access to your CB’s project and its benefits)?

Section 2.3

- As part of their consideration of whether your CB can proceed to exercise your right to buy, Ministers need to be satisfied that your CB’s proposed purchase of the land is in the public interest (section 51(3)(d) refers).
- The 2003 Act does not define “public interest”. It is for your CB to consider how the exercise of your right to buy would be in the public interest.
- Further information on public interest can be found at paragraphs 90 to 93 of this guidance document.
- You should explain why your CB considers that your proposed purchase of the land is in the public interest.

Section 2.4

- Ministers need to be satisfied that there has not, since the date on which they decided your CB’s interest should be registered, been a change in any matters to the extent that, if your CB’s application to register a community interest was made afresh, they would decide that the interest is not to be entered in the Register (section 51(3)(e) refers).
- You should consider whether there have been any changes since Ministers decided that your CB’s interest should be registered.

- If you consider that there have been no changes, you should mark an “X” in the box to confirm that there has not, since the date on which your CB’s interest was registered, been a change in any matters to the extent that, if the application to register the community interest was made afresh, Scottish Ministers would decide that the interest is not to be entered in the Register. If there have been changes, you should answer the question in Section 2.5.

Section 2.5

217. Ministers recognise that community aspirations can change over time (short, medium and long term). The circumstances which led a CB and its community to draw up particular plans may have changed, with the result that some or all of these plans are no longer appropriate, or other ones have developed from them. Some CBs and their communities may also develop further plans, having identified further needs for them.

218. There are also CBs and their communities whose plans and aspirations remain constant and are relevant over the long term. This is the case for the majority of the communities that are using the community right to buy legislation. For them, the plans that they set out in their application form to register a community interest in land are also the same plans that they want to develop when they are proceeding through the right to buy, and which they have further developed since their interest was registered.

- Where your CB’s proposals have changed since your interest in land was registered, Ministers want to hear about these changes and the reasons for them.
- You should consider if, and how, your CB’s proposals have changed since your CB registered your community interest in land.
- You should provide details of these changes and the reasons for them.

Section 3 Declaration

- Your CB is required to complete the declaration to this information form before you submit it to Scottish Ministers.
- Your CB’s completed information form must be signed and dated by two board members, charity trustees, or committee members of your CB, as appropriate, on behalf of your CB, and who have been authorised by your CB. The signatories must state their position in your CB and provide their full names and addresses for the purposes of prevention and detection of fraud.



- If your CB makes or provides any inaccurate statement or provides inaccurate information, whether deliberate or accidental, or you knowingly withhold any information, you should be aware that these actions could result in Scottish Ministers deciding not to allow the right to buy to proceed.

After Ministers have received your CB's "Section 51B Information Form"

219. On receipt of your CB's completed "Section 51B Information Form", Ministers may within seven days request further information relating to the information you have provided in your form. This request is made in order to assist Ministers in assessing the information you have submitted. Your CB will have seven days in which to provide the requested information to Ministers (section 51B(5) refers).

220. If Ministers request any information that relates to arrangements for the raising of expenditure of money to enable the land to be put to a particular use, your CB can require Ministers to treat that information as confidential (section 51(4) of the Act).

221. Your CB should consider making additional information available to your community to inform it of your CB's proposals to proceed with the right to buy, and to inform your community of the result of the ballot, arranged by Ministers. You could, for instance, issue a newsletter, develop a website or a Facebook page or make a full set of documents on your right to buy available at a local shop/library.

1.17 Ballot

222. Following intimation of the value of the land (the assessed value of the land or valuation price), a ballot of your defined community is undertaken in order to show that there is a sufficient level of relevant support for the exercise of your CB's right to buy the land.

223. A certain level of support must be achieved in the ballot of your community. This level is that a proportion of the members of your defined community who voted must be sufficient to justify your CB proceeding to buy the land, and the majority of those voting must have voted in favour of the proposition that your CB buy the land (section 51(2) refers).

224. The ballot of your CB's community – in the form of a secret postal ballot – will be conducted by a balloter appointed by Ministers. The balloter will be a person who appears to Ministers to be independent and to have knowledge and experience of conducting ballots. Ministers will meet the costs of undertaking the ballot.

225. The procedure for undertaking the ballot is set out in sections 51, 51A, 51B, 51C and 52 of the 2003 Act and in regulations 13 to 20 of the 2015 Regulations (see Annex B). The ballot process is also set out below.

The ballot process

226. The ballot is to be carried out by the balloter within 12 weeks of their appointment by Scottish Ministers (section 52(4) of the Act). However, if the valuer requests an extension to the period to undertake their valuation, the period in which the ballot has to be conducted will be longer. Ministers will inform your CB if there is to be a change to the timescales in which the ballot of your community is to be conducted.

227. Ministers must, within 28 days of the date they appointed the independent valuer to assess the value of the land you are seeking to purchase, send certain information to the balloter to enable them to carry out the ballot of your community. This is a copy of your CB's application to register a community interest in land which relates to the land your CB has confirmed it wishes to exercise your right to buy. If your CB has changed your governing documents, Ministers will also send a copy of your CB's modified, AofA, constitution or registered rules, as appropriate. Ministers will also provide the date by which the balloter must notify Ministers, your CB, the owner of the land to which the ballot relates, and any creditor in a standard security with a right to sell the land, the result of the ballot (section 51A(2) and (3) of the Act and article 13(1) of the 2015 Regulations refer) (see Annex B).

228. This information will give the balloter key information to arrange to undertake the ballot: the date by which the balloter has to return the result of the ballot; the contact details of the parties who will receive the ballot results; the contact details of your CB and the details of your defined community that is to be balloted.

229. Ministers will also give your CB the contact details for the balloter to enable you to make contact with them (section 51A(4) refers).

230. Your CB must, within seven days of the date when you were notified of the assessed value of the land (the valuation figure), provide the balloter with: (1) the wording for the ballot question and (2) specified information that is to be distributed with the ballot question (as contained in Schedule 10 of the 2015 Regulations – “Information to be provided to balloter – section 51A(6) of the Act”) (see Annex B).



231. The wording of the ballot question is the wording upon which the ballotter will conduct the ballot (section 51A(5) refers). While it is up to you to decide the form of the wording, you may wish to seek advice to ensure that your question is a fair one. The Community Land Team can provide impartial advice.

232. You should also provide the ballotter with the information that is to be provided in Schedule 10 of 2015 Regulations (see Annex B). This is intended to provide your community with key information on your CB's proposed community buyout of the land on which the community will be voting.

233. You must provide that information to the ballotter in the specified form set out in Schedule 10 of the 2015 Regulations (see Annex B). This information includes the name of your CB; your RCIL registration number; your CB's company number, registration number or charity number, as appropriate; your CB's contact details; a description of the land and any salmon fishings or mineral rights your CB is seeking to purchase; your CB's proposals for the land and any salmon fishings or mineral rights, where members of your community can obtain further information on your CB's proposals; and the assessed value of the land and any moveable property which your CB is seeking to purchase.

234. You must keep that information short and succinct so that your voters have key information under each of the key headings. Your CB is required to fit this information on two sides of A4 paper, using 12 point type, using Arial font.

235. Your CB can also provide additional information to your community through a range of other means. You may want to do this through social media, or your CB's website, if you have one. Some CBs have worked closely with a local newspaper circulating in their area to provide publicity during the course of their buyout.

236. Your CB may decide to provide a copy of your plans at a convenient place in your community. For example, you may want to place a copy of your plans in your local library, community centre or shop (or all of these) so that members of your community can read of your plans at their leisure.

The conduct of the ballot

237. The balloter will conduct the ballot of your community for Scottish Ministers. It will be conducted as a secret postal ballot.

238. In conducting the ballot, the balloter will undertake a number of tasks:

- ascertain who is eligible to vote in the ballot;
- send each eligible person a ballot paper which includes:
 - the question on which the vote is to be taken;
 - a description of the land and any salmon fishings or mineral rights to which the question pertains; and
 - the date and time, being not less than 10 days after the date of posting, by which the paper must be returned.
- the balloter will provide each eligible voter with a stamped addressed envelope so that they can return their completed ballot paper.

Proxy votes

239. If a member of your community requires a proxy vote they should contact the balloter, in writing. When they request a proxy vote, they must provide the balloter with the following information:

- the name and address of the person eligible to vote;
- the name and address of the person whom the person eligible to vote wishes to appoint as a proxy.

240. The request must be signed by the person entitled to vote and include a statement confirming that the person who is eligible to vote has consulted the proxy and that the proxy is capable and willing to act as proxy.

241. A request for a proxy vote must be received by the balloter not later than 5pm on the day before the date on which the ballot paper must be returned.

242. The provisions for the proxy votes are set out in regulation 16 of the 2015 Regulations (see Annex B).



The ballot return

243. The ballotter will undertake the count of all the papers that have been returned by the date and time by which the papers are to be returned. The ballotter is also responsible for returning the result of the ballot to Scottish Ministers, your CB, the owner of the land and any creditor in a standard security with a right to sell the land.

244. In addition to returning the result of the ballot, the ballotter has also to publish the results in a newspaper circulating in the vicinity of the community within 14 days of the date specified for the ballot return (regulation 17 of the 2015 Regulations) (see Annex B). The form of the return of the ballot which the ballotter is required to send to Ministers, your CB, the owner of the land and any creditor in a standard security with the right to sell the land is set out in Schedule 11 of the 2015 Regulations.

245. The ballotter is to retain all paperwork relating to the ballot for a period of two years after the date of the ballot (regulation 18 of the 2015 Regulations) (see Annex B).

Circumstances affecting the result of the ballot

246. As noted above, the ballotter will inform your CB, Ministers, the owner of the land to which the ballot relates, and any creditor in a standard security with the right to sell the land, of the result of the ballot. They will also publish the ballot result in a local newspaper in the area of your community within 14 days of the date of the ballot return.

247. During the course of the ballot your CB may have been aware of circumstances that you believe may have had an impact on its result (section 51C refers). The legislation does not define what these circumstances are. It states that these are “any circumstances that the body considers have affected the result of the ballot.” (section 51C(1)). It is for you to set out these circumstances and how you consider they may have affected the result.

248. If your CB considers that there are any circumstances that may have affected the result of the ballot, you must notify Ministers in writing within 14 days of the date when you were notified of the ballot result (section 51C(1) refers).

249. In making a representation to Ministers, your CB must provide Ministers with evidence that enables them to (1) establish the circumstances that have affected the ballot result; and (2) the effect that these circumstances have had on the result of the ballot (section 51C(1) and (2) of the Act). You are required to send a copy of your CB’s representations to the owner of the land to which the ballot relates (section 51C(2)(b) refers).

250. It is up to your CB to provide robust evidence to ascertain the cause and effect of the circumstances on your ballot result.

251. Ministers may require further information from your CB. They may, for example, ask you to clarify certain information that you have sent, or ask for further evidence. It will be for you to decide how to provide that further information.

252. If Ministers require further information from your CB they will write to you within seven days of the date they received your CB's representation setting out that you believe there are circumstances that have affected the result of the ballot of your community.

253. Your CB has seven days in which to reply to the Ministers' request for further information (section 51C(3) and (4) of the Act).

254. After receiving your CB's representations, the landowner will have the opportunity to provide Ministers with comments on them, together with any evidence that they may have (section 51C(5)). The landowner must also send a copy of their comments to your CB.

255. Your CB then has the opportunity to comment on the representations made by the landowner. You should send any comments your CB has to Ministers within seven days of your CB receiving the landowner's comments (section 51C (5)-(7) of the Act).

256. Ministers may request further information from your CB on the comments that it made on those submitted by the landowner. If you are asked for further information, your CB must provide it within seven days of Ministers making that request (section 51C(8) and (9) of the Act refer).

257. Ministers will consider all the representations and evidence that they have received under section 51C of the Act to decide whether they are satisfied that there have been circumstances that have affected the result of the ballot (section 51C(10) of the Act).



Ballot not conducted as prescribed in the 2015 Regulations

258. There may, exceptionally, be cases where a ballot is not conducted in accordance with the relevant provisions of the 2015 Regulations (regulations 15 to 17) (see Annex B). In order to clarify what happens when this situation arises, Ministers have set out a process to provide a review of a ballot (section 52(7) and regulations 19 and 20 of the 2015 Regulations).

259. The purpose of this review process is to ascertain whether the ballot was conducted in accordance with the relevant provisions as prescribed, and, if it is decided that a ballot was not conducted in accordance with the regulations, to order that a further one is conducted by a balloter.

260. A request for a review of whether a ballot was conducted in accordance with the regulations may be made by your CB, the owner of the land, or a creditor in a standard security with a right to sell the land, where there is one. In addition, where Ministers have reason to believe that the ballot may not have been conducted in accordance with the regulations, they may decide to review the ballot (regulation 19).

261. Ministers will undertake the review of the ballot. If there are two or more requests for a review of the same ballot, Ministers can consider or decide upon them together, or separately.

262. If your CB wants to request a review of the ballot of your community, you must make your request to Ministers in writing within 21 days after the date on which the balloter notified the result of the ballot. In your request, you must set out the reasons why your CB believes that the ballot was not conducted in accordance with the regulations.

What happens after a request for a review has been made by your CB, the other parties, or by Ministers themselves?

263. Where your CB has requested a review of whether the ballot was conducted in accordance with regulations 15 to 17, Ministers must send a copy of your request for a review to the landowner and a creditor in a standard security with a right to sell the land where there is one, and also to the balloter. When Ministers issue a copy of your request, they must invite these parties to provide views within 21 days that the invitation is sent.

264. Where Ministers themselves decide that a review should be carried out, they must send a copy of their reasons for a review to your CB, the owner of the land or a creditor in a standard security with a right to sell the land, as appropriate, and to the ballotter. In doing so, they must invite these parties to provide views within 21 days that the invitation is sent.

265. Following receipt of these views, Ministers must, within seven days, send them to your CB, the owner of the land, or a creditor in a standard security with a right to sell the land, and the ballotter, and ask them to provide further views. These views must be made within 14 days after the invitation was sent.

266. Ministers then have 28 days from the day after they have received these last views to consider them and all the information sent to them in relation to the review request, and to notify your CB, the owner of the land, or a creditor in a standard security with a right to sell the land, as appropriate, of the decision of their review and the reasons for their decision.

267. If Ministers conclude that the ballot was not properly conducted then a further ballot will be conducted (regulation 20(8) of the 2015 regulations) (see Annex B).

Further ballot to be carried out

268. If Ministers conclude that a further ballot is to be conducted, it must be conducted in accordance with the requirements of the regulations, and within 35 days from the date in which Ministers sent notification that a further ballot is to be conducted (regulation 20 as read with regulations 15, 16 and 17(1) of the 2015 Regulations) (see Annex B). The cost of this further ballot will be met by Ministers (section 52(7) of the Act and regulation 20(6) of the 2015 Regulations).

269. Ministers will provide certain information to the ballotter in order to allow them to conduct the further ballot (regulation 20(2) refers). In addition, your CB must also provide further information to the ballotter within 14 days from which Ministers notified that a further ballot is required (regulation 20(3) of the 2015 Regulations). This information is:

- the name of your CB;
- your company number, registration number, or charity number of your CB as appropriate;
- the contact details for your CB;
- a description of the land and any salmon fishings or mineral rights in relation to which your CB is exercising your right to buy;



- details of your CB's proposals for the use of the land in relation to which you are exercising your right to buy;
- details of where copies of your CB's proposals can be obtained by members of your community; and
- the assessed value of the land and any moveable property which has been valued as notified to you CB by the valuer.

270. Following the ballot, the ballotter will notify your CB, the owner of the land to which the ballot relates, and any creditor with a standard security with a right to sell the land, of the result of that ballot (regulation 20(4) of the 2015 Regulations). This must be made within 35 days from the date on which Ministers sent notification that a further ballot is to be carried out.

The Ministers' decision on whether your CB can proceed with your right to buy

271. Ministers have 21 days from the date of receipt of the ballot return and the receipt of your CB's submission of your "Section 51B Information Form" in which to notify their decision on whether your CB can proceed with your right to buy (sections 51(5) and (6) of the Act). This period is extended to 35 days if your CB made representations that you believe that there were circumstances that affected the result of the ballot.

272. When Ministers make their decision, they will set out the reasons for making that decision. Their decision is contained in a notice which is copied to the landowner and creditor in a standard security with the right to sell the land, where appropriate. Ministers will also direct the Keeper to enter a record of this decision in the RCIL.

273. Where two or more CBs have confirmed that they will exercise their right to buy the land, and each has confirmed their intention to proceed with the right to buy, Ministers have up to 21 days following the receipt of the last ballot conducted by these community bodies to notify their decision as to which body should proceed (section 51(6)(b) of the Act). This period is extended to 35 days if a CB made representations to Ministers about any circumstances that it considered had affected the result of the ballot.

Appeal against the Ministers' decision

274. Parties may choose to appeal to the sheriff against the Ministers' decision. Your CB, and also the landowner or creditor in a standard security with the right to sell the land, may choose to appeal to the sheriff against the Ministers' decision on the exercise of your CB's right to buy. Your CB may choose to appeal a decision not to approve the exercise of your CB's right to buy; the landowner or creditor may wish to appeal a decision to consent to the right to buy (section 61(1), (2) and (3A) of the Act). A person who is a member of the community may also wish to appeal a decision to approve the consent to the exercise of your CB's right to buy land (section 61(3)(b)).

275. An appeal may be made by summary application to the sheriff in whose sheriffdom the land or any part of it is situated. An appeal must be lodged within 28 days from the date on which Ministers decided whether or not to approve your CB's right to buy.

1.18 Funding

276. The Act makes no specific reference to funding for the purchase of the land. **It is for your CB to decide where to obtain funding to support your purchase of land.** Annex B includes details of various funders that provide funding support. Your CB should contact the funding agents directly and as early as possible to obtain advice on funding options for your purchase.

1.19 After purchase

What happens next?

277. The purpose of the community right to buy is to provide opportunities for communities throughout Scotland to secure their future through the purchase and subsequent sustainable development of land. When your CB has succeeded in purchasing land it had registered an interest in, you should seek to ensure that the land which your CB has purchased will remain a resource that benefits your community as a whole.

Your CB and its role

278. Your CB must continue to be a company limited by guarantee, Scottish charitable incorporated organisation, or community benefit society, as appropriate, whose surplus funds are applied for the benefit of your community.



279. Where Ministers believe that your CB, having already successfully purchased land under the Act, would no longer qualify as a CB, they may compulsorily acquire that land (section 35(3) of the Act).

280. The implications of these provisions are clear: your CB must continue to observe the requirements of the Act in relation to any land bought under its provisions. For example, your CB's articles, constitution, or registered rules, as appropriate, must state that any surplus funds which your CB (or its successor) may enjoy, may only be applied to purposes which benefit the whole of your community. There is absolutely no scope for paying any surplus funds as a dividend to be shared out amongst individuals.

If it becomes necessary to wind up your CB (in the case of a CLBG)

281. The Act makes provision for what a CB's articles of association must provide for the winding up of a CB which is a company limited by guarantee (section 34(1)(h) and 34(7)). Your CB is similar to any other company being wound up in that your surplus assets, including the land and any associated sporting or mineral interests, will contribute towards satisfying any liabilities which your CB may leave behind. In addition, any surplus assets which have not been absorbed by liabilities must be transferred to another approved CB (crofting CB or Part 3A CB), or, if no such body exists, either to Ministers or to a charity nominated by Ministers (section 34(1)(h) of the Act). You can make provision in your AofA that any surplus assets may only be directed to a charity (section 34(7) of the Act). The Act defines "charity" as "a body entered in the Scottish Charity Register" (section 34(8) of the Act).

If it becomes necessary to wind up other types of CB

282. The Act does not make provision for winding up a CB which is a Scottish charitable incorporated organisation or community benefit society. This is because their respective governing bodies – the Office of the Scottish Charities Regulator (if your CB is a SCIO), or the Financial Conduct Authority (if your CB is a BenCom), specify what arrangements are required in the event that such a CB requires to be wound up.

Duty to provide information about community right to buy

283. Ministers may from time to time decide to monitor or evaluate any impact that the community right to buy has had.

284. To undertake monitoring or evaluation, Ministers may request that you, as a CB or a former CB, which was involved in using the community right to buy process, provide information that they may reasonably require on the effect of the operation of the provisions that they have had or may be expected to have. This will relate to matters that are specified in the Ministers' request.

285. If you are requested by Ministers to provide information, you must provide it to the extent that you are able to do so.

1.20 Conclusion

286. The community right to buy land in Part 2 of the Land Reform (Scotland) Act 2003 is one means that is available to communities to use when seeking to purchase land that your community has an interest in. You may consider other means to acquire land that you have an interest in. You may think that it is more appropriate for your community to buy land from the landowner by agreement, without using this legislation. The key to using this latter approach is good communication. Regardless of the route you choose to pursue, you should consider the advice which is set out in this guidance before you make your decision. We recommend the assistance of a solicitor at an early stage in proceedings. Annex B provides useful contacts to help you through the right to buy process and after your CB has purchased the land.

287. The Community Land Team cannot provide legal advice and must remain impartial at all times: its main role is to provide advice to Ministers, on a case-by-case basis, at various stages in the right to buy process. However, the Community Land Team can help you with any process-related questions you have on the procedures to be followed. We recommend that your CB contact the Team as early as possible to benefit from its expertise.

SECTION 2: GUIDANCE FOR LANDOWNERS AND CREDITORS IN A STANDARD SECURITY WITH THE RIGHT TO SELL THE LAND



2.1 The landowner and creditor in a standard security with the right to sell the land

1. As a landowner or creditor in a standard security with the right to sell the land, or rights (hereinafter referred to as “land”), your role is vital to the community right to buy process. This is because, in order for a community right to buy to be activated and for a community body (CB) to purchase land in which it has registered a community interest (under Part 2 of the Land Reform (Scotland) Act 2003 (“the Act” or the “2003 Act”) as amended by Part 4 of the Community Empowerment (Scotland) Act 2015 (“the 2015 Act”), **you must be a willing seller: you must wish to dispose voluntarily of the registered land.** It is therefore for **you** to decide when you want to sell the land, how much land you wish to sell and how the land for sale is lotted (CBs only have a right to buy registered land under Part 2 of the Act: any other land needs to be acquired by agreement, outwith the provisions of the Act). **The community right to buy will not be activated if you do not want to sell the land.**

2. **The community right to buy does not prevent you from developing your land, subject to any necessary planning approval. CBs should not use the right to buy as a way to stop you from developing the land in any way.** If you wish to develop your land for housing or for other purposes that come under the planning process, these are for the planning authority to determine and not for the community right to buy process. **These two processes are entirely separate matters and are in no way related.** The existence of an application to register a community interest in land or a registration on that land will not affect Scottish Ministers’ (Ministers) consideration of any planning matter which may subsequently come before them for determination in terms of the relevant planning legislation.

3. **If you have entered into an option agreement before a CB’s application to register an interest in your land has been submitted to Scottish Ministers, the application from the CB will not be considered.** If, however, Ministers find that an option agreement put in place after a valid application has been submitted to them, it will be deemed to have no effect.



2.2 Community bodies and your role with them

4. A Community Body (CB) must take one of three legal forms. The first is a company limited by guarantee (CLBG) (section 34(1) of the Act). The second is a Scottish charitable incorporated organisation (SCIO) (section 34(1A) of the Act). The third is a community benefit society (BenCom) (section 34(1B) of the Act). The CB must, at all times, have no fewer than 10 members (sections 34(1)(c), 1A(c) and 1B(c) of the Act refers), although Scottish Ministers have discretionary power (section 34(2)) to accept a CB with fewer than 10 members, for example in a remote rural community. The CB's Articles of Association (AofA) (if a CLBG), constitution (if a SCIO), or registered rules (if a BenCom), must contain provision to meet the requirements of sections 34(1), 34(1A) and 34(1B) of the Act respectively. Ministers must be satisfied that the main purpose of the CB is consistent with furthering the achievement of sustainable development (section 34(4) of the Act). CBs may also wish to attain charitable status; that is a matter for them to decide on.

5. A CB may wish to discuss its proposals with you before it submits an application to register a community interest in land. However, there is no legislative requirement to do so. Some CBs have chosen not to contact the landowner before submitting their application, and the landowner does not know anything about the proposed intention to register an interest until they receive a copy of the CB's application form and supporting documentation from Scottish Ministers (section 37(5)(a) of the Act). If a CB discusses its plans with you and both you and the CB decide to negotiate, you may both come to a solution, without recourse to the legislation, which is beneficial to both of your needs. Some communities may also find that it may be more appropriate to lease land rather than to purchase it.

2.3 Registrable land

6. A CB can apply to Ministers to register a community interest in any land in Scotland other than excluded land. Land in which a community interest can be registered includes salmon fishings or mineral rights which are owned separately from the land with which they are associated (section 33(2A) of the Act) but excludes the associated rights to oil, coal, gas, gold or silver. A CB may apply to register an interest in these supplementary rights as long as it is, at the same time, applying to register an interest in, has already registered an interest in, or already owns the land to which these rights relate. Other rights which are owned separately from the land, such as oyster or mussel gathering rights, and sporting rights which are owned separately from the land, are also deemed to be excluded land and, as such, CBs cannot register an interest in these rights.

2.4 Single and multiple registrations of land

7. A registered interest must relate to land in the ownership of one party or land in common or joint ownership (see section 37(15)). CBs can also make multiple registrations of land. This can mean (1) that a CB has registered an interest in more than one piece of land (e.g. the parcels of land they want to register an interest in are owned by a number of different owners and/or creditors in a standard security with the right to sell the land), or (2) more than one CB has registered an interest in the same piece of land.

8. CBs should not use multiple applications as a means to obtain a “blanket” registration over an area of land. Should a CB consider submitting multiple applications, it should demonstrate serious intent **in each one**, both in registering an interest in land and when given the opportunity to purchase the land should the right to buy arise. A CB should make applications in respect of land that, given the opportunity, it would want to proceed with the right to buy.

Multiple registrations on your land

9. If more than one CB has a registered interest in your land when you offer it for sale, each CB will be given the opportunity to decide whether it wishes to proceed with its right to buy. If each CB wishes to proceed with the right to buy in respect of the same piece of land, and both can show the required community support, Ministers will decide which CB will proceed with the right to buy while the other one has its registered interest deleted.

2.5 The Register of Community Interests in Land (RCIL)

10. The Act provides for the setting up and maintenance of the Register of Community Interests in Land (RCIL) which contains information and documents relating to each CB’s registered interest in land (section 36 of the Act). The Act sets out the information and supporting documents that must be held in the RCIL (section 36(2) of the Act). Scottish Ministers will instruct the Keeper to enter information on the RCIL at various stages in the community right to buy process from the time they receive a CB’s application and supporting documents to register a community interest in land until after the right to buy is activated. Additional information may be entered into the Register if Ministers so instruct. **You may find it helpful to consult the Register to view the applications which have been received to date.**

11. The Keeper of the Registers of Scotland (RoS) is responsible for maintaining the RCIL, ensuring that it is made available for public inspection at all reasonable times and is free of charge. The Register can be viewed on the RoS website (details are in Annex B).



12. If an interest is registered in land that you own, or you are a creditor in a standard security with the right to sell the land, and your contact details change, you must inform Ministers of that new information as soon as possible after the change has occurred.

13. If you are a creditor with a standard security with the right to sell your land, and your details are not included in an application form that has been submitted to Scottish Ministers by a CB, you must notify Ministers of that fact as soon as possible (section 44A of the Act). If it comes to light that your details have not been included, or are incorrect, Ministers will need to consider whether the registered interest in land should be deleted from the RCIL. If you have any questions about whether you should be named on an application to register a community interest in land, you should contact the Community Land Team (contact details at Annex B).

2.6 Applications: “timeous” application and “late” application

14. Applications to register an interest in land are either “timeous” or “late” (i.e. not timeous).

15. A **timeous application** is one where the land in which the CB wishes to register its interest in has not been offered for sale or where no other steps have been taken with a view to transfer of the land (see section 37 of the Act). CBs are encouraged to submit an application as early as possible and be pro-active in registering an interest before steps are taken to market the land. We expect the majority of applications to be timeous.

16. A **late application** is an application which is submitted after the owner, or a creditor in a standard security with a right to sell the land, has taken steps to transfer the land or sell it, but before missives are concluded or before an option to acquire the land is conferred (see sections 39(1A) and 40(5) of the Act). If the application is a late one, the provisions of section 39 of the Act will apply in addition to those of section 38. A CB is required to provide further information to Ministers to satisfy them that it can demonstrate that:

- the CB, or a person working with a view to an application being made by the CB, undertook relevant work to prepare an application to register an interest in land, or relevant steps to acquire land (the land does not need to be the land which is the subject of their application), sufficiently in advance of the land being offered for sale (section 39(3) of the Act);

- if the CB has good reasons why work or steps to acquire the land were not carried out prior to the land being offered for sale or before steps were taken with a view to transfer of the land, Ministers may still accept the application if Ministers are satisfied that the CB has demonstrated that there are good reasons why the application should be allowed, despite the lack of work or steps being taken to acquire the land before the land was offered for sale or transfer the land (section 39(3A) of the Act);
- if you offered land which is mainly the same as the land which is the subject of the application to register an interest to the CB within the last 12 months, the CB's application will be rejected unless the CB has good reasons why it did not proceed with the purchase of the land that was offered by you.
- If you offered land which is mainly the same land which is the subject of the application to a "similar" CB within the last 12 months, the CB's application will be rejected unless there are good reasons why the CB did not proceed with the purchase of the land that was offered by you (section 39(3)(ab) of the Act). The factors that Ministers will consider when deciding whether the two CBs are "similar" are set out in regulation 11 of the Community Right to Buy (Scotland) Regulations 2015 (see Annex B). These matters are:
 - whether there are directors, charity trustees, officers or members common to both community bodies;
 - whether there are similarities between the purposes of the two community bodies as set out in their AofA, registered rules or constitution;
 - whether there are similarities between the definitions of the two defined communities as set out in the AofA, constitution or registered rules; and
 - the dates the two community bodies were formed, constituted or registered as appropriate and, if applicable, the date on which one of the community bodies was dissolved or removed from the Scottish Charity Register as appropriate.

17. When Ministers are considering whether land has been offered to a CB or a similar CB within the 12 months prior to the date a CB made its application to register a community interest in land, Ministers will also consider whether the land which was originally offered is **mainly** the same as the land to which the application relates. If the CB or the similar CB is able to demonstrate why they did not proceed with the purchase of the land, the application to register a community interest in land will not be rejected by Ministers on those grounds.

18. The CB is also required to provide evidence of sufficient community support for its proposals. CBs have, for example, gathered evidence of community support by having a petition signed by residents of their community. For a late application a higher level of community support is required:



- there must be a **significantly greater** level of support within the community than that required for a timeous application (for a “timeous” application, Ministers expect to see at least 10% support, though in exceptional circumstances, less than 10% may be acceptable); and
- the information provided by the CB in their application to register their interest that it is **strongly indicative** that it is in the public interest that the community interest be so registered.

19. Details of the stages of the process to register a community interest in land are set out in Annex A.

2.7 The process to register a community interest in land

Timeous application

20. Following receipt of a CB’s application to register a community interest in your land, Ministers will write to you and any creditor with a standard security that is recorded in the application. They will enclose a copy of the application and supporting documents (in terms of section 37(5)(a) of the Act) and will give you 21 days in which to provide any views you wish to put forward on the application (section 37(5)(b)). **Failure to provide comments within this time will be understood as you having no views on the application. Ministers have no obligation to consider views submitted outwith this period.** The letter will also inform you that a temporary prohibition has been placed on the land which is the subject of the application and which Ministers will consider should have a registered interest in it (section 37(5)(e) of the Act). This prevents you from disposing of the land or taking any action with a view to transfer the land. Any transfer of the land in breach of this prohibition has no effect and so does not constitute a legal transfer of title to the land (section 40(2) of the Act).

21. These timescales may be affected by local and public holidays in the place where the interest is to be registered (section 67A refers). For the dates of public and local holidays you should consult your local authority, who determine them based on local tradition (not statutory authority) and after consultation with local business interests (public and local holiday timings do not affect the period of time specified in the timescale for the period of buying the registered land (section 56(3)(a) or (b), valuation (section 60(3) or appeals (sections 61-64)).

- 22.** Where Ministers receive an application that does not disclose that missives have been concluded or an option conferred then you as owner of the land or a creditor in a standard security with a right to sell the land, must provide evidence of concluded missives or an option agreement to Ministers within 21 days of receiving a copy of the application. That evidence will not be placed on the RCIL.
- 23.** Where there is an option agreement, you as owner, must provide information on the date of the option agreement and information on whether or not and how it may be extended.
- 24.** If the CB's application is one that discloses that missives have been concluded or an option has been conferred, Ministers are not required to send a copy of the application to you as owner or the creditor in a standard security with a right to sell the land. Ministers will send a copy of the application to you as owner and any creditor and require you or the creditor as appropriate to provide evidence of the concluded missives or the option conferred. You will also be required to provide further information about the option conferred.
- 25.** **If you have been sent a letter which includes the prohibition but you are not the owner of the land subject to the application, or if any part of that land is not owned by you, or is subject to a standard security which has not been noted in the application form, you should immediately inform Ministers of that fact.**
- 26.** Where there is a standard security in an interest in any land to which a CB's application relates, the creditor should note their responsibilities in terms of section 37(5)(c) and (6) of the Act. Ministers will ask them to confirm whether any of the circumstances described in section 37(6) of the Act has arisen (relating to the calling up and serving of notices) and, if these apply, Ministers will also ask for your creditor's views on the application.
- 27.** **Where you have taken steps with a view to sale or transfer any part of the land referred to in the CB's application form, you must inform Ministers of the fact that you believe that the application is a "late" rather than a "timeous" application (section 39(2) of the Act) and supply evidence of the steps you have taken to transfer it. The CB may not be aware that you have taken steps to sell or transfer the land in which it wishes to register its interest. The CB will then be required to provide further information to Ministers to satisfy them that, in addition to meeting the criteria in section 38 of the Act, it can fulfil the additional criteria noted in section 39 of the Act for late applications.**



28. After Ministers receive your views, and any views of a creditor in a standard security with the right to sell the land, they are copied to the CB which, in turn, has 21 days from the date of the Ministers' invitation in which to comment on them (section 37(9) of the Act) unless the application is a "late" one. **Your views, those of any creditor in a standard security, and those of the CB, will not be entered into the RCIL.** Once all views have been received, Ministers will consider them with a view to making their determination of the application.

29. Ministers have 63 days from the date of receipt of a CB's "timeous" application in which to notify their decision on whether the application has been approved or rejected (section 37(17) of the Act). There may be cases where the Ministers' decision letter is not issued within this period. This does not, however, affect the validity of their decision (section 37(19) of the Act). Following their consideration, you, any creditor in a standard security, and the CB will receive notification of their decision (section 37(17)(a) and (c) of the Act). This is in the form of a notice stating reasons for their decision and information on the effect of the registration.

Appeal of the Ministers' decision

30. If you, or a creditor in a standard security with the right to sell the land, are unhappy with the Minister's decision on the registration of a CB's community interest, you, or the creditor may choose to appeal the decision (see section 61(1) and (3A) of the Act). A person who is a member of the community may also wish to appeal this decision (section 61(3)(a)). The party lodging the appeal with the sheriff must notify Ministers and the other parties to the application of the appeal (section 61(6) of the Act). Appeals may be made, by summary application, to the sheriff in whose sheriffdom the land or any part of it which is the subject of the registration is situated. Appeals **must** be lodged within 28 days of the decision by Ministers (section 61(4) of the Act). Section 61(6) of the Act provides details of who must be informed of an appeal and by whom. The sheriff's decision is final and may require rectification of the Register (section 61(7) of the Act).

The registration process – late application

31. There are a number of differences in the procedures for the registration of a late application. Following the receipt of a CB's application to register a community interest in land owned by yourself, or which you have an interest in as a creditor in a standard security with the right to sell the land, Ministers will write to you in relation to the application (section 37(5) of the Act). They will enclose a copy of the CB's application and supporting documentation (in terms of section 37(5)(b) of the Act) and will give you 21 days in which to provide and submit any views that you wish to put forward on the application.

- 32.** If you have taken steps with a view to transfer the land, you are required to inform Ministers that you believe the application to be late (section 39(2) of the Act). You should also provide evidence to show that the application is a late one. The CB will then be required to provide further information to Ministers to satisfy them that the additional criteria for a late application has been met (section 39 of the Act).
- 33.** As for timeous applications, Ministers have no obligation under the Act to consider views submitted outwith the 21-day period allowed to you. Failure to provide comments within this time will be understood as you having no views on the application.
- 34.** When Ministers write to you with the CB's application to register an interest in land, they will also inform you that a temporary prohibition has been placed on the land set out in the application (section 37(5)(e) of the Act). This prevents you from selling or transferring the land and taking a view to transfer the land while Ministers are considering the CB's application to register an interest in your land. Any transfer of the land in breach of this prohibition has no effect and does not constitute a legal transfer of title to the land (section 40(2) of the Act).
- 35.** On receipt of your views and those of any creditor in a standard security in the land, a copy will be sent to the CB. The CB will not, however, be invited to submit comments on them (as it would if the application was a timeous one).
- 36.** These timescales may be affected by local and public holidays in the place where the interest is to be registered (section 67A refers). For public and local holidays you should consult your local authority, who determine them based on local tradition (not statutory authority) and after consultation with local business interests (public and local holiday timings do not affect the period of time specified in the timescale for the period of buying the registered land (section 56(3)(a) or (b)), valuation (section 60(3) or appeals (sections 61-64)).
- 37.** Where Ministers receive an application that does not disclose that missives have been concluded or an option conferred then you as owner of the land or a creditor in a standard security with a right to sell the land, must provide evidence of concluded missives or an option agreement to Ministers within 21 days of receiving a copy of the application.
- 38.** Where there is an option agreement, you, as owner, must provide information on the date of the option agreement and whether or not and how it may be extended.



39. If an application is one that discloses that missives have been concluded or an option has been conferred, Ministers will send you a copy of the application and require you to provide evidence of the concluded missives or the option conferred. The owner will also be required to provide further information about the option conferred.

40. Ministers shall, within 30 days of receiving a late application, send a notice to you and to the CB of their decision on whether the application to register a community interest in your land has been approved (section 39(2)(b)(ii)). There may be cases where the Ministers' decision letter is not issued within this period. This does not, however, affect the validity of their decision (section 37(19) of the Act). Ministers will provide reasons for making their decision. If Ministers decide to approve the CB's application, they will direct the Keeper to register the CB's interest in the RCIL (section 37(20) of the Act). If Ministers decide not to approve the application, the interest in land will not be entered into the RCIL and the temporary prohibition on your land will be removed.

Appeal of the Ministers' decision

41. If you, or the creditor in a standard security with the right to sell the land, are unhappy with the Minister's decision on the registration of a CB's community interest in land, you or the creditor may choose to appeal the decision (section 61(1) and (3A) of the Act). In addition, a person who is a member of the community may also wish to appeal a decision (section 61(3)(a)). Paragraph 30 above sets out the appeals process.

2.8 Effect of a registered interest in your land

42. Following the approval of a CB's application, a prohibition comes into effect (section 40(1) of the Act) (a temporary prohibition was in place following the Ministers' receipt of the CB's application to register a community interest in land). This means that for as long as there is a community interest registered in relation to your land, you are prohibited from transferring the registered land, except where you are undertaking an exempt transfer under section 40(4) of the Act (see paragraphs 45 to 47 below) until the registration no longer applies.

43. The registration is valid for 5 years from the date of the Ministers' approval, unless:

- the CB requests its registered interest to be deleted;
- the CB refuses the opportunity to exercise its right to buy the land;
- there has been, since the interest in land was registered, a change in any matters to the extent that if the application to register the community interest were made afresh, Ministers would decide that the interest was not to be entered in the RCIL; or
- it is continued in terms of an application for re-registration for a further period of 5 years.

44. Depending on the terms of the lease, any formal lease arrangement that is in place and is in effect at the time that a registered interest in place may continue.

Transfers exempt under the Act

45. As long as a community interest is registered in your land, you (as owner or creditor in a standard security having the right to sell the land) are prohibited from transferring the land or from taking any action with a view to transferring it, unless that transfer is specifically exempt in terms of section 40(4) of the Act. The exempt transfers include:

- a transfer as a gift (section 40(4)(a));
- as an order of a court or a decree in an action for the division and sale of land (section 40(4)(b)(b));
- a transfer between spouses or civil partners when pursuing an arrangement between them which they entered into after they ceased living together (section 40(4)(c));
- a transfer of croft land to the crofter tenancing it (section 40(4)(d));
- a transfer between companies in the same group (section 40(4)(e)); or
- a transfer to a statutory undertaker to enable it to carry out its undertaking (section 40(4)(f)).

For a full list of the exempt transfers you should consult section 40(4) of the 2003 Act.



46. If you intend to transfer the land under any of the exemptions listed in section 40(4) of the Act, you are required, in terms of section 43(2), to incorporate a declaration of exemption in your transfer document. The deed should detail which exemption provision applies. If your exemption relates to a transfer as a gift (section 40(4)(a)), between companies in the same group (40(4)(e)), in relation to partners in a firm or trustees in a trust (section 40(4)(h)), the deed must confirm that the transfer does not form part of a series of transfers where the main purpose or effect is to avoid the requirements or consequences of the Act. Action with a view to a transfer, as described in section 40(1)(b) of the Act, could be action such as an **oral** notification to another party that you intended to sell the land, though the Community Land Team would require evidence to that effect.

47. **If you complete a transfer under the terms of section 40(4), the CB's registration will remain and the prohibition on the registered land will then apply to the new owner.** The right to buy will then be activated if the new owner takes steps to dispose of the registered land.

48. If you transfer the registered land under any of the exemptions in section 40(4) of the Act, you must inform Ministers within 28 days of that transfer taking place. In informing Ministers of that transfer, you must inform Ministers of the transfer, the name and address of the person to whom the land was transferred to, the date of the transfer.

49. You should also provide Ministers with a description of the land which was transferred. You should provide maps, plans or other drawings of the land (section 41(3) of the Act).

50. The maps, plans or other drawings must meet the requirements of regulation 12 and Schedule 9 of the Community Right to Buy (Scotland) Regulations 2015 (see Annex B). In particular, they should:

- be made to a metric scale, corresponding to a scale used by the Ordnance Survey, show a north point and give OS Grid References and sufficient surrounding details to enable the location to be determined;
- show the boundary of the land which has been transferred;
- be to one decimal place (e.g. 8.2 metres, 2.3 ha). Imperial measurements (e.g. 1 inch to 8 feet) should not be used;
- any salmon fishing or mineral rights which are the subject of the CB's application should be clearly marked on the map, plan or drawing.

Transfers in breach of the Act

51. If you transfer, or attempt to transfer, the land which is the subject of a CB's registration without informing Ministers and the CB, you will have breached the prohibition set out in sections 37(5)(e) and 40(1) of the Act. The CB is then entitled, in terms of section 50 of the Act, to apply to the Lands Tribunal for Scotland to buy the land as if you had informed Ministers of your intention to sell your land in terms of section 48(1) of the Act.

52. Where a breach has taken place, sections 58(5) and (6) of the Act apply. They set out that where you, as an owner, refuse or fail to make deeds and other documents available or they cannot be found, a CB may apply to the Lands Tribunal for Scotland to order that you or another person appearing to the Tribunal to be the person who has these deeds and documents to produce them. If you, as the owner, refuse or fail to effect the transfer of the land, the CB may apply to the Lands Tribunal for Scotland to authorise the principal clerk to adjust, execute and deliver such deeds or other documents which will enable the transfer of the land to be completed, as if done by you, the owner. **A transfer in breach of the Act has no effect and does not constitute a legal transfer of title to the land.**

2.9 Re-registration of a community interest in your land

53. If a CB wishes its registration to continue after the initial five-year registration, then it must apply to Ministers to re-register its interest (section 44 of the Act). Ministers will write to the CB 12 months in advance of the expiry date of its registration to ask the CB whether it wishes its registration to continue beyond its expiry date and invite it to submit an application to re-register its interest (section 44(5A) and (5B)). An application to re-register an interest **must** be made within the six-month period prior to the expiry of the registration (section 44(2) of the Act). If the CB does not submit its application to re-register a community interest in land within that timescale, its registered interest in land will lapse and the prohibition on your land will be lifted. A CB, may then decide to submit a further application to register an interest at a later date.

54. Applications to re-register an interest in land will be considered in the same way as applications for registration (section 37 of the Act). **You will be invited by Ministers to offer your views on the CB's application to re-register its interest in land.** The CB will also be invited to make comments on any views you submit. If Ministers decide to approve the re-registration, it will continue for a further five years from the expiry date of the previous registration. Any further applications to re-register that interest must be made every five years thereafter.



Appeal of a re-registration of interest

55. As for the registration process, you and the creditor in a standard security with the right to sell the land can appeal the Ministers' decision (section 61(1) and (3A) of the Act). In addition, a person who is a member of the community may also wish to appeal a decision (section 61(3)(a)). Should you or the creditor successfully appeal a decision to re-register a community interest in land, the renewed registration will be lifted and the registration deleted from the RCIL.

Deletion of a registered interest in land

56. If, at any time, a CB decides that it wishes its registration to be deleted or it does not wish to proceed with its right to buy, it is required to inform Ministers, in writing, of that fact (section 54(1) of the Act). On receipt of this information, Ministers will direct the Keeper of the RCIL to delete the CB's community interest from it. Ministers will also notify you of the deletion of the CB's interest. Alternatively, if, Ministers are satisfied that there have been, since they decided that a community interest should be registered, a change in any matters to the extent that, if the application to register that community interest were made afresh, they would decide that the interest is not to be entered in the Register, they shall direct the Keeper to delete that interest. Before they delete that interest Ministers will have first requested views from both you and the CB on the matter (section 45 of the Act).

57. Following the deletion of a CB's interest, you are free to offer the land for sale unless another application is made to register an interest, for example, where there is another registered interest in the land.

After an interest has been registered

58. After Ministers have registered an interest in your land you have a number of duties to undertake in respect of the registered interest.

59. If the contact information for you as landowner changes after the interest in land has been registered, you must inform Ministers of any changes as soon as possible thereafter (section 44A(3) refers). If there is a creditor in a standard security with a right to sell the land and their details change, the owner must notify Ministers as soon as is reasonably practicable. The owner must also notify Ministers of any changes to the information in an application relating to a creditor in a standard security as is reasonably practicable (section 44A(4) refers).

60. If the application is one where there is a creditor in a standard security with an interest in the land to which the application relates and the application did not disclose the existence of such a creditor, the owner must notify Ministers of their existence together with their contact details, as soon as is practicable after the interest has been registered (section 44A(5) and (6) refer).

2.10 Notification of your intention to sell or transfer land

61. If you decide to dispose of the land which is the subject of a CB's registered interest, you are required to inform the CB, or CBs (if there is more than one registered interest in your land), and Ministers of your proposed transfer in writing (as required by section 48(1) of the Act). Your notification must be made using the prescribed form which is contained in Schedule 6 of the 2015 Regulations (see Annex B). The stages of the right to buy process are noted in Annex A.

62. Ministers then have seven days to ask the CB (or CBs) to confirm, in writing, whether it (they, if there is more than one CB with a registered interest in the same land) wish to exercise their right to buy. You will receive a copy of this notice (section 49(5) of the Act and Schedule 7 of the 2015 Regulations) (see Annex B). The CB (or CBs) have 30 days in which to respond. If the CB (or CBs) confirms their intention to exercise their right to buy, Ministers will decide which CB should proceed to buy the land. The unsuccessful CB's right to buy will be extinguished and its registered interest deleted from the Register.

63. The successful CB has eight months from the date it confirms its intention to exercise its right to buy to raise the purchase price, make payment, and conclude the transfer of the land and any moveable property, as also any rights (section 56(3) of the Act). If, however, the CB fails to conclude the transfer within this period (or within two months of the determination or abandonment of the appeal, as may be, or such longer period as may be agreed between you and the CB) the CB's right to buy will be extinguished and its interest removed from the RCIL.

64. If the CB fails to advise Ministers within the 30-day period that it wishes to exercise its right to buy, its right to buy will be extinguished and its registration removed from the RCIL. Ministers will inform you of this fact and you will be free to dispose of the land as you wish unless another CB submits a late application to register its interest.



2.11 Valuation of your land

65. Within seven days of a CB confirming that it wishes to exercise its right to buy your land, Ministers will appoint an independent valuer. The aim of this independent valuation is to ensure that you receive a fair price, at market value, for your property. **It is not the purpose of the Act to allow the CB to purchase land cheaply.**

66. The definition of “market value” is set out at section 59(6) of the Act. The valuation will consist of the value of your land and any moveable property included in the sale. This reflects market value and ensures the land and any moveable property are transferred at a fair price. Where a CB is purchasing a part of your land, the amount of any depreciation in the remaining land included in that lot will be compensated (as provided for in section 59(6) (b) of the Act).

67. The appointed valuer acts on behalf of Scottish Ministers and not for any other party involved in the right to buy of your land. The valuer will seek written views from yourself and the CB on the value of the land and any moveable property associated with that land prior to intimating the valuation price (the assessed value) (section 60(1) of the Act). Where you submit views to the valuer, the CB will be given the opportunity to comment on them. You will have the opportunity to comment on any representations made by the CB to the valuer. When considering what the assessed value of the land is, the valuer will take all comments received into consideration. The valuer will also take account of the known existence of any person who would be willing to buy the land at a price higher than others might be expected to pay. The assessed value of the land and any moveable property will include a brief statement which provides reasons for the valuation figure (the assessed value).

68. The valuer has eight weeks (or longer if agreed by Ministers in terms of section 60(3) of the Act) to provide Ministers, you and the CB with the assessed value of the land. The price to be paid for the land and any moveable property is: the price agreed between the CB and the owner of the land; or where no such agreement is reached, the price equal to the value assessed by the appointed valuer, or of that value is subject to an appeal, the value determined by the appeal.

69. You should consider whether you require a separate valuation for your own purposes. Should you appoint your own valuer, you must meet your own costs, as these will not be met by Ministers. Ministers will only pay the costs of their appointed valuer.

Withdrawal from the community right to buy: expenses of valuation of land

70. If you decide to withdraw the land from sale after Ministers have appointed their valuer to assess the value of the land, Ministers may require you to pay their expenses in connection with that valuation (section 60A of the Act).

71. Where such a situation arises, Ministers will consider sending demand for their expenses in relation to the valuation. They may request information from you to assist them in deciding whether or not to send you the demand for payment of expenses (section 60A(2) of the Act).

72. Where Ministers make a demand for payment, you can decide whether you want to appeal the demand. Appeals must be made to the sheriff within 21 days of receipt of the demand for payment.

73. You must pay that demand within 28 days of receiving it. If you have made an appeal against the demand, and it is not upheld by the sheriff, you must make the payment within 28 days of its determination.

Appeal of the valuation

74. Should you or the creditor in a standard security (or the CB), be unhappy with the valuation, an appeals procedure is available (section 62 of the Act). An appeal against the valuation should be made to the Lands Tribunal for Scotland within 21 days from the date when the valuer intimates the assessed value of the land (the valuation figure) (section 62(2) of the Act). The Lands Tribunal for Scotland has eight weeks from the conclusion of the appeal hearing to intimate its decision (section 62(7) of the Act). If the Lands Tribunal is unable to issue a written statement within eight weeks, it will notify the parties to the appeal when it will issue its written decision (section 62(7A)(b)).

75. The Lands Tribunal for Scotland (LTS) may reassess the valuation and substitute its own for that of the appointed valuer. **The value of the land and any moveable property used in connection with, and being sold with, the land, or both, as determined by the LTS is the price the CB will pay to purchase the land and any moveable property unless a different price is agreed by yourself and the CB.**

76. You should be aware that as Ministers only appoint the valuer, that they are not a competent party to any valuation appeal (section 62(9) of the Act). **If you call the valuer to appear as a witness on your behalf, any costs will not be met by the Scottish Ministers.**



2.12 The CB's right to information form

77. The CB cannot exercise its right to buy unless it has the approval of the community and the consent of Ministers. The CB must satisfy Ministers on a number of points (section 51(2) and (3) of the Act refers). This includes providing evidence to show that the CB continues to comply with the provisions of section 34 of the Act, that what the CB proposes to do with the land is compatible with furthering the achievement of sustainable development, and that the proposed purchase of the land is in the public interest. A ballotter is also appointed by and funded by Ministers to carry out a ballot of the community to confirm that there is sufficient support for the CB's exercise of its right to buy. **The ballotter will send a copy of the ballot result to you as set out in Schedule 11 of the 2015 Regulations (see Annex B).**

2.13 Ballot

78. Following the intimation of the assessed value of the land, a ballot of the defined community is held to assess whether there is sufficient support within the community for the CB's proposals to proceed with the right to buy. The ballot will be a secret postal ballot. The ballotter will be appointed by Ministers. They will be a person who appears to Ministers to be independent and to have knowledge and experience of conducting ballots. Ministers will meet the costs of undertaking the ballot.

79. The ballot is to be carried out by the ballotter within 12 weeks of their appointment by Ministers (section 52(4) of the Act). If the valuer requests an extension to the period to undertake their valuation, the period in which the ballot has to be conducted will be longer. Ministers will inform you, the creditor in a standard security with the right to sell the land and the CB, if there is to be a change to the timescales in which the ballot is to be conducted. The detailed requirements for the ballot are set out in sections 51, 51A, 51B, 51C and 52 of the Act and regulations 13 to 21 of the 2015 Regulations (see Annex B).

80. As noted, the ballot should be conducted by the ballotter as a secret postal ballot. If you are resident in the community and eligible to vote in a local government election, you will be entitled to vote in the ballot. If you are in doubt as to whether you are entitled to a vote, you should discuss this matter with the CB or, if this is not possible, with the Community Land Team.

81. If you are an eligible voter you will receive a ballot paper (with a stamped addressed envelope for the return of your vote) and information on the CB's proposed purchase of the land. You will be informed of the closing date and time for the return of the ballot papers in the accompanying notification.

82. The defined community will be seen as giving its approval to the CB exercising its right to buy if Ministers are satisfied that the proportion of the members of the community who voted in the ballot is sufficient to justify the CB proceeding to buy the registered land, and that the majority of those community members who voted in the ballot voted in favour of the proposition to buy that land (section 51(2) of the Act).

83. If you have any objections to the ballot, you should discuss these with the ballotter as early as possible. This should preferably take place before the ballotter submits the ballot results to Ministers (the ballot is to be carried out within 12 weeks of the appointment of the ballotter by Scottish Ministers). You may also wish to discuss any unresolved objections with the Community Land Team. Ministers will pay particular attention to determine whether the ballot has been conducted in accordance with the legislative procedures. If Ministers decide that the ballot was not conducted in accordance with them, then another ballot will be conducted as set out in regulation 20 of the 2015 Regulations (see Annex B).

84. Ministers have 21 days from receiving the ballot result in which to send notice of their consent to buy the land to you, the creditor in a standard security with the right to sell the land, and to the CB (section 51(5) and (6) of the Act). Ministers will also direct the Keeper to enter a record of their decision in the RCIL. Where more than one CB has confirmed that it will exercise their right to buy the land, Ministers also have 21 days following the receipt of the last ballot conducted by these bodies to notify their decisions to each of the community bodies.

Circumstances affecting the ballot

85. The ballotter will notify the result of the ballot to you, any creditor in a standard security with the right to sell the land, the CB and Ministers.

86. If the CB is aware of any circumstances that may have had an impact on the result of the ballot, it must notify you and Ministers in writing within 14 days of the date when the CB was notified of the ballot result.

87. In making a representation to Ministers, the CB must provide evidence that ensures that it is reasonably necessary to (1) establish the circumstances that have affected the ballot result and (2) the effect that these circumstances have had on the result of the ballot (section 51C(1) and (2)).



88. Ministers will send the CB's representations to you and any creditor with a standard security with the right to sell the land, and ask you to provide comments on them, and provide any evidence you may have (section 51C(5)). You must send your comments to Ministers within seven days. You must also send a copy of your comments to the CB, which is then given the opportunity to comment on your comments and send them to Ministers (section 51C(5)-(7) of the Act).

89. Ministers will consider all the representations and evidence they receive under section 51C of the Act when deciding whether they are satisfied that there have been circumstances that have affected the result of the ballot (section 51C(10) of the Act refers).

Ballot not conducted as prescribed in accordance with the relevant provisions

90. There may be cases where a ballot is not conducted in accordance with the relevant provisions of the Act and Regulations (sections 51, 51A, 51B, 51C and 52 of the Act and regulations 14 to 17 of the 2015 Regulations) (see Annex B). Ministers expect this to occur only very exceptionally. In order to clarify what happens when this situation arises, Ministers have set out a process to provide a review of a ballot (section 52(7) of the Act and regulation 19 of the 2015 Regulations). The review of the ballot process is carried out by Ministers.

91. The purpose of this review process is to ascertain whether the ballot was conducted as prescribed in accordance with the relevant provisions, and, if it is decided that a ballot was not conducted in accordance with the regulations, to order that a further one is conducted by a ballotter as prescribed, and to carry out that ballot as prescribed. When a request to review the ballot is made, Ministers will consider whether or not the ballot was properly conducted. Ministers can also decide to review whether a ballot was conducted.

92. A request for a review of whether a ballot was conducted in accordance with the regulations may be made by the landowner, a creditor in a standard security with a right to sell the land, as well as the CB. In addition, where Ministers have reason to believe that the ballot may not have been conducted in accordance with the regulations (regulations 14 to 17), they may also request a review.

93. Ministers will undertake the review of the ballot. If there are two or more requests for a review of the same ballot, Ministers can consider or decide upon them together, or separately.

94. If you, or the creditor with a standard security with the right to sell the land, wants to request a review of the ballot, you must make your request to Ministers in writing within 21 days after the date on which the ballotter notified the result of the ballot. In your request, you must set out the reasons why you believe that the ballot was not conducted in accordance with the regulations.

95. If Ministers believe that the ballot may not have been conducted in accordance with the relevant provisions as prescribed, and decide that they want to review the ballot, they must also set out their reasons for their reasons for a review.

96. Where you request a review, Ministers must send a copy of your request for review to the CB and any creditor in a standard security with a right to sell the land where there is one, and also to the ballotter. When they do so, they must invite these parties to provide views within 21 days that the invitation is sent.

97. Where Ministers themselves decide that a review should be made, they must send a copy of their reasons for a review to the CB or creditor in a standard security with a right to sell the land or landowner, as appropriate, and to the ballotter. In doing so, they must invite these parties to provide views within 21 days that the invitation is sent.

98. Following receipt of these views Ministers must, within seven days, send them to the creditor in a standard security with a right to sell the land, the CB, and the ballotter, and ask them to provide further views. These views must be made within 14 days after the invitation was sent.

99. Ministers then have 28 days from the day after they have received these last views to consider them and all the information sent to them in relation to the review request, and to notify you, the creditor in a standard security with a right to sell the land, the CB, and the ballotter, of the decision of their review and the reasons for their decision.

100. If Ministers decide that the ballot was not properly conducted then a further ballot will be carried out (regulation 20 of the 2015 Regulations).

Further ballot to be carried out

101. If Ministers conclude that a further ballot is to be conducted, it must be conducted in accordance with the requirements of the regulations, and within 35 days from the date in which Ministers send notification of the reasons why a further ballot must be conducted (regulation 20 of the 2015 Regulations) (see Annex B). The cost of this further ballot will be met by Ministers (section 52(7) of the Act and regulation 20(6) of the 2015 Regulations).

102. The ballotter will notify you, any creditor with a standard security with a right to sell the land, and the CB of the result of that ballot (regulation 20(4) of the 2015 Regulations).



Appeal against the Ministers' decision to approve the right to buy

103. If you or a creditor in a standard security with the right to sell the land are unhappy with the Ministers' decision to approve a CB's exercise of its right to buy the land on which it has a registered interest, you or the creditor may choose to appeal that decision (section 61(1) and (3A) of the Act). In addition, a person who is a member of the community may also wish to appeal a decision (section 61(3)(b)).

104. Appeals may be made, by summary application, to the sheriff in whose sheriffdom the land or any part of it which is the subject of the registration is situated. Appeals must be lodged within 28 days of the decision by Ministers (section 61(4) of the Act). Section 61(6) of the Act provides details of who must be informed of an appeal and by whom. The sheriff's decision is final and may require rectification of the Register (section 61(7) of the Act).

2.14 Transferring your land to the community body

105. You have eight months from the date the CB confirmed its intention to exercise its right to buy in which to transfer the registered land to the CB or two months following any appeal decision, or longer if mutually agreed between yourself and the CB. You may withdraw from the sale at any time. However, you should be aware that you may be liable for valuation expenses incurred by the Scottish Ministers (section 60A refers).

106. If you withdraw from the sale, then the CB's registered interest and the prohibition on the land will remain and you will be unable to sell the registered land to any other party other than the CB. Unless the CB's registered interest is removed for other reasons, your withdrawal from the sale does not remove the CB's right to buy the land should you wish to sell at a later date.

107. It is expected that, as you are a willing seller and you wish to dispose of the registered land, good communication will lead to a successful transfer of your land to the CB within the period allowed for the transfer. If there is any unreasonable delay in transferring title of the land by either you or the CB, the Act allows a CB or landowner to apply to the Lands Tribunal for Scotland to order the responsible party to take corrective action within a stated time. The party who makes such an application to the Lands Tribunal must inform Ministers of this approach in writing within seven days of the date the party approached the Lands Tribunal (section 57 of the Act). If you are the responsible party, failure to conform with the order will result in the Lands Tribunal for Scotland ordering you to transfer the land to the CB on the terms which it has specified. A further failure will result in the Lands Tribunal for Scotland effecting the transfer on your behalf. If the CB does not adhere to the transfer deadline and you and the CB have not agreed an extension in which to complete the transfer, then the right to buy will be extinguished (section 56(5)).

2.15 Compensation

108. Section 63 of the Act sets out the circumstances in which a person, other than a CB, which has suffered loss or incurred expense arising from the operation of Part 2 of the Act, which is additional to costs normally incurred during a transaction of land and any moveable property, may claim compensation. The Act also sets out that any person who has suffered loss or incurred expense as a result of the suspension of a right of pre-emption, redemption or reversion is also entitled to compensation (section 63(4) of the Act). The circumstances in which compensation is payable are set out in section 63(1) of the Act. The procedures for recovering costs are set out in the the 2015 Regulations see Annex B).

109. Following the exercise of the CB's right to buy, compensation will not be payable for any loss or expense after the eight-month period allowed for the land to be transferred to the CB (section 63(3) of the Act). Any claim for compensation beyond that period falls outwith the scope of the Act.

Appeal of the Ministers' decision on compensation

110. If you are unhappy with the Ministers' decision on compensation you can appeal to the Lands Tribunal for Scotland within 21 days of that decision being made (section 64 of the Act). The Lands Tribunal for Scotland may substitute its decision on the amount payable for that determined by Ministers. This may be higher or lower than the amount decided upon by Ministers.



Duty to provide information about community right to buy

111. Ministers may from time to time decide to monitor or evaluate any impact that the community right to buy has had.

112. To undertake monitoring or evaluation, Ministers may request that you, as owner or a former owner of land that was subject to an application to register an interest in land or which was subject to the right to buy, provide information that they may reasonably require on the effect of the operation of the provisions that they have had or may be expected to have. This will relate to matters that are specified in the Ministers' request.

113. If you are requested by Ministers to provide information, you must provide it to the extent that you are able to do so.

Mediation

114. Where a CB is seeking to register an interest in land or is exercising its right to buy, a number of interested parties may request Ministers to take such steps as they consider appropriate for the purpose of arranging, or facilitating the arrangement of mediation in relation to the proposed registration of the interest in land or the exercise of the right to buy.

115. The interested parties that may make the request to Ministers are: the owner of the land; any creditor in a standard security with the right to sell the land or any part of the land; and your CB (section 97Z1(3) of the Act refers).

116. You should contact the Community Land Team in the Scottish Government if you have any questions relating to mediation.

2.16 Conclusion

117. The community purchase of land under Part 2 of the Land Reform (Scotland) Act 2003 is one means that is available to communities to use when seeking to purchase land that a community has an interest in. You may wish to consider selling your land to the community by agreement and without having recourse to the Act. The key to such a transfer is good communication between yourself and a CB. Reliance on the Act has the advantage that it provides you with a potential buyer and a guarantee of a market value purchase price where otherwise the land could be for sale on the open market for some time.

118. The Community Land Team cannot provide legal advice and must remain impartial at all times: its main role is to provide advice to Ministers, on a case-by-case basis, at various stages in the right to buy process. However, the Community Land Team can help you with any process-related questions you have on the procedures to be followed. We recommend that your CB contacts the Community Land Team as early as possible to benefit from its expertise.

119. You may wish to use the services of a solicitor at an early stage in the community right to buy process. The Community Land Team is happy to assist with any questions you may have about the process. The team cannot, however, provide legal advice nor, due to the impartiality required in advising Ministers on a case-by-case basis, advice which would be seen as supporting a particular group, such as yourself as landowner or creditor in a standard security or the CB involved in a specific case (contact details are contained in Annex B).

SECTION 3: GUIDANCE FOR THIRD PARTIES



3.1 Who is a third party?

1. A third party may be:
 - a member of the community defined by a Community Body (CB) for the purposes of section 34(5) of the Act;
 - any person who has a known interest in the registered land and who would be willing to buy the land at a higher price than others may be expected to pay; or
 - a person who has a right of pre-emption, redemption, or reversion over the registered land.

3.2 Identifying your rights

2. Individuals with legal rights in or over land should be aware of their rights. You should consider the effects of a CB's registered interest or its proceeding with its right to buy in relation to your rights. If details of your rights are contained on the Register of Sasines or the Land Register held by the Keeper of the Registers of Scotland (RoS), they should appear on a CB's application form to register an interest in the land. If the registration is approved, these details will then appear on the Register of Community Interests in Land (RCIL). **If these details are incorrect, you should inform the CB and the Community Land Team.** Although there is no legislative requirement for you to do so, this may help to ensure you have your say in the community right to buy process.

3.3 Effect of the community right to buy on your rights

3. The effect the community right to buy on pre-emption, redemption, and reversion rights is set out in section 65 of the Act. Generally, any legal right you have in the registered land is likely to be suspended from the time an application to register interest in land is approved by Ministers and recorded in the Register of Community Interests in Land (RCIL) until the transfer is completed or the registered interest is extinguished or removed. If the right to buy does not proceed, any legal right you have in the registered land will be reinstated.

Member of the community

4. If you are a member of the community, defined by a CB (for the purposes of section 34(5) of the Act), you will be entitled to vote in ballot of the community, which is required to show support for exercising the right to buy. If you meet the criteria set out in section 34(5) of the Act, you should ensure that you have a right to vote in the CB's ballot. If you discover that the ballot in which you had a right to vote has taken place without your knowledge, you should inform the Community Land Team.



Third party purchaser

5. The legislation also provides for third parties with certain other rights. For example, if a CB is exercising its right to buy registered land and a valuer has been appointed, section 59(7)(a) of the Act requires the valuer to take account of the known existence of a person who may be willing to buy the land at a higher price than others might be expected to pay. You should therefore make yourself known to the valuer, whose details can be obtained from the Community Land Team, to ensure that your views are taken into account.

3.4 Appeals

6. As a third party, if you are a member of the defined community, you have a right to appeal against the Scottish Ministers' (Ministers) decision to enter a community interest in the RCIL or to allow a CB to exercise its right to buy (under section 61(3) of the Act). Section 61(4) of the Act provides that appeals must be lodged within 28 days of the decision made by Ministers. Section 61(6) of the Act provides details of who must be informed of an appeal and by whom. The sheriff may instruct the RCIL to be altered and may impose conditions on those appealing. As the sheriff's decision is final, it may over-rule any previous decision made by Ministers.

3.5 Providing information to Ministers

7. If you wish to provide information to Ministers which is pertinent to a CB's application to register an interest in land or in relation to a CB exercising its right to buy, you should send this to the Community Land Team (contact details at Annex B). If the information is of a sensitive nature, for example, it concerns any alleged breach of the provisions of the Act, you can submit it in confidence. It will be treated as such by the Community Land Team, although you should be aware that it may still be made publicly available if requested under Freedom of Information legislation.

3.6 Compensation

8. If you or any person (other than a CB) have suffered loss or incurred expense arising from the operation of Part 2 of the Act, which is additional to costs normally incurred during a transaction of land and any moveable property, you may claim compensation. The circumstances in which compensation is payable are set out in section 63(1) of the Act. The procedures for recovering costs are set out in the Community Right to Buy (Scotland) Regulations 2015 (see Annex B).

- 9.** The payment of compensation, following the exercise of the CB's right to buy, is restricted to the eight-month period allowed for the land to be transferred to a CB (section 63(3) of the Act). Any claim for compensation beyond that period does not fall within the scope of the Act.
- 10.** Section 63(4) of the Act refers specifically to individual rights of pre-emption, redemption, and reversion. Any person who has incurred a loss or expense as regards these rights is entitled to compensation from Ministers.
- 11.** A claimant is able to appeal to the Lands Tribunal for Scotland against the Ministers' decision on compensation within 21 days of that decision being made (section 64 of the Act). The Lands Tribunal for Scotland may substitute its decision on the amount payable to that made by Ministers.
- 12.** Annex B provides useful contacts to help you through the right to buy process. The Community Land Team cannot provide legal advice and must remain objective at all times: its main role is to provide advice, on a case-by-case basis, to Ministers at various stages of the right to buy process. The Community Land Team can help you with any process-related questions you have.

Abbreviations

AofA	Articles of Association
CB	Community Body
CCB	Crofting Community Body
CLBG	Company Limited by Guarantee
CRTB	Community Right to Buy
BenCom	Benefit Company
DTAS	Development Trusts Association Scotland
FCA	Financial Conduct Authority
HIE	Highlands and Islands Enterprise
OSCR	Office of Scottish Charity Regulator
Part 3A CB	Community body formed under Part 3A of Land Reform (Scotland) Act 2003
RCIL	Register of Community Interests in Land
RoS	Registers of Scotland
SCIO	Scottish Charitable Incorporated Organisation
SCVO	Scottish Council for Voluntary Organisations
2003 Act	Land Reform (Scotland) Act 2003
2015 Act	Community Empowerment (Scotland) Act 2015
2015 Regulations	The Community Right to Buy (Scotland) Regulations 2015
2016 Order	The Community Empowerment (Scotland) Act 2015 (Consequential Modifications and Savings) Order 2016
2016 Regulations	The Community Right to Buy (Scotland) Amendment Regulations 2016

ANNEX A



Registering a community interest in land	
Timeous application	Late application
Community body (CB) applies to Scottish Ministers to register a community interest in land before land is offered for sale (at least 10% community support normally required). Ministers have 63 days from the date of receipt of the application to make a decision on the case (s.37).	Exceptionally, a community body (CB) applies to register an interest after land is offered for sale but before the deadlines set out in s.39(1) . Ministers have 30 days from the date of receipt of the application to make a decision on the case.
On receipt of a CB's application, Scottish Ministers invite views from landowner (and creditor if there is a standard security on the land) (s.37(5)(a)) and place a temporary prohibition while considering the application (s.37(5)(e)).	On receipt of a CB's application, Scottish Ministers invite views from landowner (and creditor if there is a standard security on the land) (s.37(5)(a)) and place a temporary prohibition while considering the application (s.37(5)(e)).
Landowner (and creditor) has 21 days from the date of invitation from Ministers to provide views on the application (s.37(5)(b)). Timescale may be affected by local and public holidays in the area where the interest is being registered (s. 67A).	Landowner (and creditor) has 21 days from the date of invitation from Ministers to provide views on the application (s.37(5)(b)). Timescale may be affected by local and public holidays in the area where the interest is being registered (s. 67A).
Scottish Ministers invite comments from CB on the landowner's (and creditor's) views, if these have been submitted (s.37(9)(a)). Timescale may be affected by local and public holidays in the area where the interest is being registered (s. 67A).	Comments are not sought from CB on the "landowner's" and "creditor's" views (s.39(2)(b)(i)). Timescale may be affected by local and public holidays in the area where the interest is being registered (s. 67A).
CB has 21 days from the date of invitation from Ministers to comment on views from the landowner (and creditor) (s.37(9)(b)). Timescale may be affected by local and public holidays in the area where the interest is being registered (s. 67A).	
Scottish Ministers approve or reject the application, normally within 63 days of receipt of a CB's application to register a community interest (s.37(17)). If approved, a prohibition is placed on the land (s.40(1)). Timescale may be affected by local and public holidays in the area where the interest is being registered (s. 67A).	Scottish Ministers approve or reject the application, normally within 30 days of receipt of a CB's application to register a community interest (s.37(17)). If approved, a prohibition is placed on the land (s.40(1)). Timescale may be affected by local and public holidays in the area where the interest is being registered (s. 67A).



If registration is approved

<p>Landowner has 28 days from the date on which Ministers made their decision to appeal to the sheriff against registration (s.61(1)); or</p> <p>CB has 28 days to appeal to sheriff against a decision not to register a community interest (s.61(2)); or</p> <p>Third party has 28 days to appeal to the sheriff against the Ministers' decision (s.61(3)).</p> <p>CB can re-apply if its first attempt is unsuccessful (s.46).</p>	<p>Landowner has 28 days from the date on which Ministers made their decision to appeal to the sheriff against registration (s.61(1)); or</p> <p>CB has 28 days to appeal to sheriff against a decision not to register a community interest (s.61(2)); or</p> <p>Third party has 28 days to appeal to the sheriff against the Ministers' decision (s.61(3)).</p> <p>CB can re-apply if its first attempt is unsuccessful (s.46).</p>
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Exercising the right to buy when the land comes up for sale

<p>If land is subject to a registered interest, the landowner notifies the forthcoming sale/transfer to Scottish Ministers and the CB with a registered interest (s.48(1)). The right to buy applies only to land registered under the 2003 Act.</p> <p>Within 7 days of the receipt of the landowner's notification to sell the land (s.49(2)), Scottish Ministers will: (a) send a notice to the CB seeking confirmation that it will exercise its right to buy; and</p> <p>(b) send to the landowner notification of the Ministers' compliance with (a).</p> <p>CB has up to 30 days from the date of the notice from Scottish Ministers in which to confirm whether it will exercise its right to buy (s.49(4)).</p> <p>CB also notifies the landowner and Scottish Ministers that it will exercise its right to buy (s.49(5)).</p> <p>If the CB does not provide confirmation within 30 days, the right to buy is extinguished.</p>	<p>s.39(4)(a) The landowner is deemed to have given notice under s.48(1) that a transfer is proposed and the CB is deemed to have confirmed that it will exercise its right to buy (s.39(4)(b)).</p>
--	--

Exercising the right to buy when the land comes up for sale – cont.	
Scottish Ministers appoint a valuer within 7 days of the CB confirming that it wishes to proceed with its right to buy (s.59(1)) .	Scottish Ministers will appoint valuer within 7 days from the date of registration approval (s.59(1)) .
Appointed valuer invites the landowner and CB to give their views on the value of the land. If written views are received, the other party is given the opportunity to comment on those views. The valuer notifies the assessed value within 8 weeks of their appointment date or longer by agreement with Ministers (s.60) .	Appointed valuer invites the landowner and CB to give their views on the value of the land. If written views are received, the other party is given the opportunity to comment on those views. The valuer notifies the assessed value within 8 weeks of their appointment date or longer by agreement with Ministers (s.60) .
Landowner or CB may appeal against valuation within 21 days of the date on which the valuation was made known to the CB (s.62) .	Landowner or CB may appeal against valuation within 21 days of the date on which the valuation was made known to the CB (s.62) .
A balloter appointed by Scottish Ministers ballots community on the purchase. If ballot fails to secure majority or community withdraws, the registration is extinguished (s.51(2), s.51A(1) and 52(2)) .	A balloter appointed by Scottish Ministers ballots community on the purchase. If ballot fails to secure majority or community withdraws, the registration is extinguished (s.51(2), s.51A(1) and 52(2)) .
CB confirms to Scottish Ministers that it wishes to exercise the right to buy (s.51(1)) . Notification of the result of ballot is provided by the balloter (s.52(3)) , compliance with s.51(3) , provision of business plan/feasibility study and confirmation of its intention to buy, within 28 days beginning with the date when the valuer notified the CB of the assessed value of the land and any moveable property.	CB confirms to Scottish Ministers that it wishes to exercise the right to buy (s.51(1)) . Notification of the result of ballot is provided by the balloter (s.52(3)) , compliance with s.51(3) , provision of business plan/feasibility study and confirmation of its intention to buy, within 28 days beginning with the date when the valuer notified the CB of the assessed value of the land and any moveable property.
Scottish Ministers consider the CB's application and notify the CB and landowner of their decision within 21 days of receiving the ballot result (s.51(5)) .	Scottish Ministers consider the CB's application and notify the CB and landowner of their decision within 21 days of receiving the ballot result (s.51(5)) .
CB has 8 months from the date on which it confirms to Ministers that it wishes to proceed with the right to buy (or 2 months from determination of appeal, if appeal is longer than 4 months, or later if agreed by both parties) to conclude missives, otherwise the right to buy falls (s.56(3)) .	CB has 8 months from the date of the approval of its registration of a community interest in land (or 2 months from determination of appeal, if appeal is longer than 4 months, or later if agreed by both parties) to conclude missives, otherwise the right to buy falls (s.56(3)) .
Upon payment of the purchase price and recording of title, the CB owns the land	

ANNEX B



Community Land Team, Agriculture, Food and Rural Communities Directorate,
Scottish Government, D Spur, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD
(tel: 0131 244 6003)
email: crtb@gov.scot

Scottish Government Library, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD
(tel: 0131 244 4550)
email: sglibrary@scotland.gsi.gov.uk
website: <https://sglibraryservices.wordpress.com/>

Companies House, 4th Floor, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh EH3 9FF
web: <http://www.companieshouse.gov.uk>

National Records of Scotland, Ladywell House, Ladywell Road, Edinburgh EH12 7TF
(Customer services tel: 0131 334 0380)
website: <http://www.nrscotland.gov.uk/>

General Register Office for Scotland (GROS), Ladywell House, Ladywell Road,
Edinburgh EH12 7TF
(Customer Services tel: 0131 314 4243)
email: customer@gro-scotland.gov.uk
website: www.gro-scotland.gov.uk

Registers of Scotland (RoS), Meadowbank House, 153 London Road, Edinburgh EH8 7AW
(tel: 0800 169 9391)
email: customer.service@ros.gov.uk
website: <http://www.ros.gov.uk/>

Scottish Land Court, George House, 126 George Street, Edinburgh EH2 4HH
(tel: 0131 271 4360)
website: <http://www.scottish-land-court.org.uk/>

Scottish Natural Heritage, Great Glen House, Leachkin Road, Inverness IV3 8NW
(tel: 01463 725000)
website: <http://www.snh.gov.uk/>



Development Trusts Association Scotland (DTAS), 1B Washington Lane, Edinburgh EH11 2HA
(tel: 0131 220 2456)
email info@dtascot.org.uk
website: <http://www.dtascot.org.uk/>

Scottish Council for Voluntary Organisations (SCVO), Mansfield Traquair Centre,
15 Mansfield Place, Edinburgh EH3 6BB
(tel: 0131 474 8000)
email: enquiries@scvo.org.uk
website: <http://www.scvo.org.uk/>

Office of the Scottish Charities Regulator (OSCR), 2nd Floor, Quadrant House,
9 Riverside Drive, Dundee DD1 4NY
(tel: 01382 220446)
email: info@oscr.org.uk
website: www.oscr.org.uk

Financial Conduct Authority (FCA), 25 The North Colonnade, London, E14 5HS.
(tel: 020 7066 1000)
website: www.fca.org.uk

Resources

Community Right to Buy

<http://www.gov.scot/Topics/farmingrural/Rural/rural-land/right-to-buy/Community>

Crofting Community Right to Buy

<http://www.gov.scot/Topics/farmingrural/Rural/rural-land/right-to-buy/crofting>

Communities Mapping Tool

<http://www.gov.scot/Topics/farmingrural/Rural/rural-land/right-to-buy/MappingTool>

Register of Community Interests in Land (RCIL)

<http://rcil.ros.gov.uk/RCIL/default.asp?category=rcil&service=home>

Highlands and Islands Enterprise Community Assets Team

<http://www.hie.co.uk/community-support/community-assets/>

Legislation

Land Reform (Scotland) Act 2003

http://www.opsi.gov.uk/legislation/scotland/acts2003/asp_20030002_en_1

Land Reform (Scotland) Act 2003, Explanatory Notes

http://www.opsi.gov.uk/legislation/scotland/acts2003/en/aspn_20030002_en_1

Community Empowerment (Scotland) Act 2015

<http://www.legislation.gov.uk/asp/2015/6/contents/enacted>

Community Empowerment (Scotland) Act 2015, Explanatory Notes

<http://www.legislation.gov.uk/asp/2015/6/notes/contents>

The Community Right to Buy (Scotland) Regulations 2015

<http://www.legislation.gov.uk/ssi/2015/400/made>

The Community Empowerment (Scotland) Act 2015 (Consequential Modifications and Savings) Order 2016

<http://www.legislation.gov.uk/ssi/2016/28/made>

The Community Right to Buy (Scotland) Amendment Regulations 2016

website: <http://www.legislation.gov.uk/ssi/2016/4/introduction/made>

Funding agents

Big Lottery Fund (Scotland), Pacific House, 70 Wellington Street, Glasgow G2 6UA

(tel: 0300 123 7110)

email: advicescotland@biglotteryfund.org.uk

website: <https://www.biglotteryfund.org.uk/scotland>

Highlands and Islands Enterprise Community Assets Team, Fraser House, Friar's Lane, Inverness IV1 1BA (tel: 01463 234 171) and Taigh Feàrna, Auchtertyre, Balmacara, Kyle IV40 8EG (tel: 01520 722988)

email: info@hient.co.uk

Community Assets Team website (with contacts):

<http://www.hie.co.uk/community-support/community-assets/>



Scottish Enterprise, Atrium Court, 50 Waterloo Street, Glasgow G2 6LQ
(tel: 0300 013 3385)
website: <http://www.scottish-enterprise.com/>

Grant Finder website at: <http://www.grantnet.com>

John Muir Trust, Tower House, Station Road, Pitlochry PH16 5AN
(tel: 01796 470080)
email: <https://www.johnmuirtrust.org/contact>
website: <https://www.johnmuirtrust.org/>

The Robertson Trust, Robertson House, 152 Bath Street, Glasgow G2 4BT
(tel: 0141 353 7300)
email: admin@therobertsontrust.org.uk;
website: <http://www.therobertsontrust.org.uk/>

Triodos Bank Scotland, 50 Frederick Street, Edinburgh EH2 1EX
email: mail@triodos.co.uk
website: <http://www.triodos.co.uk/>

ANNEX C



1. This Annex describes how to use the Rural Communities Mapping Tool. This electronic tool has been designed to help CBs and Crofting Community Bodies (CCBs) to identify their communities. As the definition of “community” is different in Part 2, Part 3 and Part 3A of the Act, there are features of the tool which are not relevant to the community right to buy. For Part 2, CBs can use the tool to identify, for example, areas of excluded land, postcode units, sectors, and settlement areas.

2. To utilise the full functionality of the Mapping Tool, you should disable any pop-up blocker on your browser.

1.1 Available layers in the tool

Area boundaries

- **Excluded land** – show excluded land under the terms of the Act. These areas are updated on a regular basis and show land which cannot be registered under the Act.
- **Parishes** – show agricultural parish boundaries.
- **Wards** – show Electoral Wards. Ward names can be found by using the “Identify All” button, noted below.

Postcodes

- **Postcode Unit** – show postcode units. Please note that postcode units can only be viewed under 1:50,000 scale.
- **Postcode Sector** – show postcode sectors. Please note that postcode sectors can only be viewed under 1:200,000 scale.

Settlements

- **Settlements 2002, 2003, 2004 and 2006** – show the settlement boundaries using General Register Office for Scotland data. By activating more than one of these, boundary changes become more apparent.

Base layers

- **Base layers** – show major cities. We would advise not to adjust the default setting for these layers.



1.2 Layer options

- Please check the boxes of the relevant layers that you wish to see. Bear in mind that checking a number of boxes at the same time may lead to the “view” being unclear and overly congested.
- **Options** can be opened up by clicking on the “folder” sign. Please ensure that to access the newest layer of an option (e.g. Settlements). Please ensure that the one with the latest date is checked.

1.3 Radio buttons

3. These circular buttons determine which layer is “Active”. For example, if the “Postcode Unit” button is checked, when you use the “Identify All” button along the top edge of the viewable area and click on the map itself, postcode information on that part of the land will be brought up in a separate window. The same applies for each of the options to which radio buttons are attached.

1.4 Buttons above the map

4. The buttons above the map are:
- **Print Map** – opens a new window where Print options will be shown.
 - **Clear Map** – clears the map of any draw lines or other marked selections.
 - **Whole Map** – shows the whole map i.e. the view will revert to that at the start of the session.
 - **Last Map** – shows the previous view of the map i.e. one step back, akin to an “undo”.
 - **Show Legend** – shows/hides the legend of the map. It also helps to show what layers are active.
 - **Zoom In** – click on this to activate. Place cross-hair on the map, left click and hold mouse then drag over the required area. That area will be zoomed into. Scale is shown on the bottom left of the screen.
 - **Zoom Out** – click on this to activate. Place cross-hair on the map, left click and hold mouse button then drag over the required area. That area will be zoomed out. Scale is shown on the bottom left of the screen.
 - **Move View** – click on this to activate. Place cursor onto map, left click and hold mouse button to move the viewable area.
 - **Find** – click on this to activate. A new window will appear which will allow you to search the OS Gazetteer, as will the button at the bottom of the page.
 - **Identify All** – click on this to activate. Please see above at “Radio buttons”.

- **Measure** – click on this to activate. Click onto the map at two or more points to show the distance between them or a cumulative total distance.
- **Circle Select** – click on this to activate. A new window appears. Adjust the pull down to show the requested radius, then click “draw the selection circle”. Click on the map at the required spot to show a highlighted radius from that point.
- **Square Select** – click on this to activate. Ensure the relevant active layer is activated. Place cursor onto map, left click, hold mouse button and draw required shape. Once the shape is complete the information will appear (dependant on what layers are “active”).
- **Line/polygon Select** – click on this to activate. A new window will appear. Click on map at point to draw the required shape (e.g. following postcode boundaries). Once the shape is complete, click on “Finish Shape”. You can then print off this map with the required shape shown. This will be a useful tool in creating a community boundary map.

1.5 Search buttons (bottom right)

5. The search buttons on the bottom right are:
 - **Postcode search** – allows you to search for a specific postcode unit, sector, and districts. If searching for a postcode sector or area a new window will appear showing all postcodes contained therein. Please note that Large User postcodes will not appear on the view/listing.
 - **Place search** – allows you to search by place name (settlement, town, city, etc) and to search by O.S. Grid References or by X and Y co-ordinates.



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