**WHAT IS “COMMUNITY RIGHT TO BUY” (CRtB)?**

- A CRtB is a pre-emptive right to buy land for communities throughout Scotland under Part 2 of the Land Reform (Scotland) Act 2003. It provides for those communities, who successfully register a community interest in land, to have the first option to buy when the registered land is offered for sale.

- Community bodies can register an interest in any land, such as churches, pubs, estates, empty shops, woodland, fields and more. Community bodies can also register an interest in rights such as salmon fishing rights and certain mineral rights.

- A registered interest in land lasts for five years (from the date of approval from Scottish Ministers) and can be re-registered on an ongoing basis at five-year intervals.

- The sale involves a willing seller.

- The community right to buy (CRtB) should be used where the community has identified land and has proposals for that land that could further the achievement of sustainable development.

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To be aware:

CRtB is one of a number of avenues available to help communities buy land. It might not be the best option for your community body (“CB”).

All options should be considered (e.g. working in partnership with the landowner, private negotiations with the landowner, leases, or buying the land on the open market).
WHAT “COMMUNITY RIGHT TO BUY” IS NOT

• It is not a forced sale of land.
• It is not a compulsory purchase of land.
• It is not intended to be used as a means to block or blight developments on land (e.g. “NIMBY”). (This should be addressed through the appropriate channels.)*
• It is not intended to be used to stop the landowner from developing their land if the community disagree with their plans. This should be addressed through the appropriate channels*.
• It is not intended to be used as a means to prevent or block other interested parties from purchasing land*.
• A registration is not meant to preserve the status quo. The right to buy needs to show sustainable development benefits for the land and the community*.

To be aware:

Where an application to register an interest in land appears to demonstrate any of those points marked * above, then Scottish Ministers may decline to register the application.
WHAT LAND CAN BE REGISTERED?

An application to register an interest in land can be made in relation to any type of land (and rights on the land) including, for example:

- brown and green field sites;
- lochs;
- woodland;
- retail units;
- industrial units;
- schoolhouses;
- halls;
- churches;
- salmon fishing or mineral rights.

To be aware:

The only land in which an interest cannot be registered, called “excluded land”, is land which consists of certain rights which are owned separately from the land, for example rights to gather mussels and oysters.
WHO CAN APPLY?

Your community must form a community body (CB) to apply to register an interest in land. This must either be a:

- company limited by guarantee;
- Scottish charitable incorporated organisation; or
- community benefit society.

Your community body must comply with the relevant requirements of Section 34 of the Act.

The community body should:

- be controlled by members of the community;
- be defined geographically;
- meet the requirements for defining your community as set out in section 34(5) of the Act; and
- ensure its main purpose is consistent with furthering the achievement of sustainable development.

Scottish Ministers must give written confirmation that the main purpose of the community body is consistent with furthering the achievement of sustainable development before the community body can apply to register an interest in land under the Act.

It is recommended that only once your community body receives the compliance letter it registers its articles of association, constitution or registered rules with the relevant governing body (Companies House, the Office of the Scottish Charities Regulator or the Financial Conduct Authority, as appropriate for the type of body formed).
There are two types of applications:

**Timeous applications** are applications which are made **when no action** has been taken by the landowner or creditor with a view to transfer the land, for example putting the land on the market or entering into private negotiations with a potential purchaser.

**Late applications** are applications which are made **when the land is on the market or where any action has been taken with a view to transfer of the land to be registered**.

Late applications require additional supporting information, such as:

- reasons why it is strongly indicative that it is in the public interest to register the interest;
- evidence of a significantly greater level of support at registration stage than the expected 10% normally required for timeous applications; and
- details of any relevant work or steps taken to buy the land before steps were taken to transfer the land. Ministers can also consent to a late application if they are satisfied that there are good reasons why such work or steps were not taken and for allowing the interest to be registered.
Community support:

A CB is normally required to demonstrate at least 10% support from their defined community for their proposed application to register an interest in land.

A petition list is the best way to determine this and should contain:

- a clear question asking whether signatories agree to the community’s proposed application;
- printed name, address and full postcode of each signatory; and
- date and signature of each signatory.

Evidence of community support must be within six months of the date the application is made to Scottish Ministers.

Ownership:

- It is important the CB provides Scottish Ministers with the correct landowner details. Ownership of land is dealt with by Registers of Scotland who can assist in identifying ownership. [http://www.ros.gov.uk/](http://www.ros.gov.uk/).
- The CB must identify any creditors in a standard security (e.g. mortgage lenders).
- Companies House will provide up-to-date details of a company’s registered address.
REGISTERING AN INTEREST IN LAND

The application form requires information including:

- **Sections 1 and 2** – name, contact information and membership details of the community body; and the community definition (both written and mapped);

- **Section 3** – details of the land to be registered (both written and mapped) and details of the community’s connection to the land. Further guidance relating to submitting compliant maps is provided at pages 10 and 11;

- **Section 4** – details of the ownership of the land; details of those who have legally enforceable rights such as leases over the land and creditors with a standard security of the land; and details of the steps taken by the community body to trace owners or creditors;

- **Section 5** – is only completed for late applications, that is where the land is already being marketed or steps been taken with a view to transfer of the land. See page 6 for further information on late applications;

- **Section 6** – details of the community support obtained such as a petition list. See community support on page 7 for more details;

- **Section 7** – details of the CB’s proposals for the land, and details of how the acquisition of the land will be compatible with sustainable development. The community body might wish to consider the economic, environmental and social benefits their proposals will bring;
REGISTERING AN INTEREST IN LAND

- **Section 8** – reasons why it is in the public interest for Scottish Ministers to register the interest in the land. CBs should consider the economic, environmental and social benefits their proposals will bring;

- **Section 9** – the declaration must be signed by two board members, charity trustees or committee members. By signing the declaration the signatories are confirming that they are authorised by the CB to sign the application form, and that they understand that if any information provided is inaccurate then Scottish Ministers may not register the application.

To be aware:

The Community Land Team is happy to look over draft applications before a final application is submitted.

All applications received by Scottish Ministers are made publicly available on the Register of Community Interests in Land.

You must answer all applicable questions on the application form and provide the required supporting documentation. If you provide Scottish Ministers with the incorrect or missing information Ministers will decline to consider your application.
Any maps, plans or other drawings submitted as part of the application must conform to the requirements in the Community Right to Buy (Scotland) Regulations 2015 (SSI 2015/400): [http://www.legislation.gov.uk/ssi/2015/400/contents/made](http://www.legislation.gov.uk/ssi/2015/400/contents/made)

At least two maps, plans or other drawings should be submitted with an application.

The first of these is a community boundary map or drawing, showing the entire boundary location of the community according to the community definition as set out in the articles of association, constitution or registered rules.

The second of these is a map, plan or drawing of the land in relation to the application which is being made. This can be a map accompanying a land title deed, or a close up of the immediate area around the land to be registered, however the map must conform with the requirements of Schedule 1 of the 2015 Regulations.

Maps, plans or other drawings must clearly show:

- a map grid reference, such as a four-figure Ordinance Survey Grid Reference (e.g. NT1234);
- a Northing;
- the scale to which the map is drawn; and
- the boundary of the land or community. Using a distinctive colour helps distinguish it from surrounding areas.

Please include an arrow pointing from the map grid reference to the land’s location on the map.

To be aware:

Please ensure that all maps provided fully comply with Schedule 1 of the 2015 Regulations and sections 2.5 and 3.5 of the application form (contained in Schedule 2 of the 2015 Regulations).
The map below is an extract of the CRtB mapping tool which you might find helpful when mapping or defining your community. The map can be accessed via the link [http://www.scotland.gov.uk/Topics/farmingrural/Rural/rural-land/right-to-buy/MappingTool](http://www.scotland.gov.uk/Topics/farmingrural/Rural/rural-land/right-to-buy/MappingTool)

Please note, the example below is for illustration purposes only and does not represent any proposed CRtB application or existing CRtB registered interest.
THE REGISTRATION PROCESS/TIMESCALES

Stage 1: A compliant application to register an interest in land is received by Ministers.

Stage 2: Scottish Ministers send a copy of the application to the landowner (and any creditors in a standard security), invite the landowner and any creditor to provide views on the application, and place a prohibition on any transfer of the land, or any action being taken with a view to transfer of the land.

Stage 3: The landowner (and creditor) has 21 days to reply from the date of the invitation to provide views on the application (if they wish).

Stage 4: If views are received, these will be forwarded to the community body who will have 21 days to provide any comments. (The CB will not be invited to comment on comments received on a late application.)

Stage 5: Scottish Ministers have 63 days from receipt of a valid application to decide whether to register the interest or decline the interest (or 30 days for a late application).

Stage 6: The community body and landowner (and any creditor) will be notified of the Scottish Ministers’ decision.

Stage 7: The community body, landowner, creditor or member of the community can appeal the Scottish Ministers’ decision by lodging an appeal with the local Sheriff, within 28 days of the decision being made.

Stage 8: The registered interest will remain for five years.

To be aware:

Any failure by Scottish Ministers to comply with the timescales within which they must make their decision does not affect the validity of their decision.

A community body must notify Scottish Ministers of any changes to its name or changes to the address of its registered or principal office.
When a landowner or creditor decides to transfer the registered land, they must notify Scottish Ministers and the CB that they propose to dispose of that land. This notification “activates” the right to buy and gives the CB the opportunity to buy the registered land in accordance with the Act. This does not prevent the CB from negotiating a sale without the CRtB having been activated.

Scottish Ministers will write to the CB upon receipt of notification from the landowner or creditor to ask the CB to confirm within 30 days whether it wishes to proceed with the right to buy.

Where a late application is approved by Scottish Ministers, the CB is deemed to have given notice of the proposed transfer, meaning that the right to buy is activated as of the date that the notice is deemed to have been given.

To be aware:

If the community body declines to proceed with exercising its right to buy, its interest will be deleted.
THE RIGHT TO BUY PROCESS

If your CB confirms that it intends to proceed with exercising its right to buy then Scottish Ministers will appoint an independent valuer to conduct a full market valuation. The valuer will have eight weeks to produce this report.

The price to pay is one of the following:

- the amount agreed between the two parties;
- if no agreement is reached, the market value of the land as assessed by the valuer; or
- if the valuation is appealed, an amount to be determined by the Lands Tribunal for Scotland.

A ballot of all eligible voters within the community will be conducted with the results normally being returned to Scottish Ministers within 12 weeks of the appointment of the valuer. The ballot will be conducted by a ballotter who is appointed by Scottish Ministers.

The CB will also need to submit a Section 51B form (see Schedule 12 of the 2015 Regulations) and may supply a business plan, feasibility study etc to support the information provided in the form. The Section 51B form and the supporting evidence should be submitted on or before the date the ballot results are to be submitted by the ballotter.

Ministers then have 21 days from receipt of the ballot result to make their decision on whether the community body can proceed with its right to buy.

The date of entry and payment of the price must be within eight months from the date the CB confirmed its intention to exercise its right to buy, however a later date can be agreed by both parties.
THE RIGHT TO BUY PROCESS/TIMESCALES

**Stage 1:** The CB will be notified that the right to buy has been activated and it will be asked to confirm whether or not it wishes to exercise its right to buy.

**Stage 2:** If the CB decides to proceed, an independent valuation will be carried out on the land. The valuation process takes place over eight weeks.

**Stage 3:** The ballotter, appointed by Ministers, will normally have 12 weeks from the date of appointment of the valuer to conduct a ballot and submit the paperwork. The CB will submit a Section 51B form along with any supporting document such as a business plan or feasibility study.

**Stage 4:** If required, Scottish Ministers will have seven days to request further information to assist them in deciding whether to allow a CB to proceed with exercising its right to buy.

**Stage 5:** The CB has seven days to return any requested information.

**Stage 6:** Scottish Ministers will have 21 days from the return of the ballot results to consider the information provided and make a decision on whether the community body can proceed with its right to buy.

**Stage 7:** The date of entry and payment of price must be within eight months from the date on which the CB confirmed it would exercise its right to buy. Any extension to the period for completing the purchase is possible only with the agreement of the landowner and community body.

To be aware:

Any failure by Scottish Ministers to comply with the timescales does not affect the validity of their decision.
USEFUL WEB LINKS:
The Community Right to Buy page:
You will find further guidance documents and associated documents such as the application form and model articles of association, constitution and registered rules.

http://www.scotland.gov.uk/Topics/farmingrural/Rural/rural-land/right-to-buy

CRtB Secondary Legislation, including the Community Right to Buy (Scotland) Regulations 2015:

http://www.scotland.gov.uk/Topics/farmingrural/Rural/rural-land/right-to-buy/Resources/Orders

The mapping tool:

http://www.scotland.gov.uk/Topics/farmingrural/Rural/rural-land/right-to-buy/MappingTool

The Register of Community Interests in Land:

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

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ISBN: 978-1-78544-982-6

This document is also available on The Scottish Government website: www.gov.scot

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS63904 (02/16)