

DISCLAIMER: This form is illustrative only, and has been created explicitly for the purposes of the Part 5 consultation. The final version of the form will be included as part of the Regulations implementing Part 5 of the 2016 Act and is likely to be different from this, following the consultation and further consideration by the Scottish Government.

ANNEX A - LAND TRANSFER REQUEST FORM

Scottish Government form for completion by a body constituted under Part 5 of The Land Reform (Scotland) Act 2016 (the “Act”), to send to a land owner, part of, or all of, whose land they are seeking to acquire.

Note to the Part 5 community body

This form must be completed as instructed, otherwise it will not be valid.

Note to the land owner to whom this form has been sent

This form has been provided by the Scottish Government for Part 5 community bodies to send to a land owner at the time a community body writes to the land owner to seek the transfer of land that is owned by the land owner.

If you have received this form, it is because a Part 5 community body, as defined in terms of the Act, has written to you to seek the transfer of part or all of your land.

Explanation of this form

This form is for a Part 5 community body seeking to acquire land under the terms of the Act.

Completing this form accurately, and sending it to the owner of the land which the Part 5 community body is seeking to acquire, allows the Part 5 community body to comply with the procedural requirement in section 56(3)(a) of the Act, which states that *“before the period of 6 months ending with the day on which the application was made, the Part 5 community body has submitted a written request to the owner of the land to transfer the land to the community body or, as the case may be, to the third party purchaser named in the application and the owner has not responded or has not agreed to the request.”*

Where the land owner does not respond or has not agreed to the request within 6 months of it being sent to the land owner, the Part 5 community body may apply to Scottish Ministers to seek the transfer of the land, all applications will be subject to the requirements under Part 5 of the Act.

Please note the failure of a land owner to respond or to agree to a Part 5 community’s request will not influence Scottish Ministers’ decision in favour of a formal application to buy land under the Part 5 process.

Scottish Ministers will assess each Part 5 right to buy application on its own merit, against the sustainable development conditions and procedural requirements under Part 5 of the Act.

This form is divided into two parts.

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Part A is for the Part 5 community body to complete. The Part 5 community body must complete Part A accurately and send it to the land owner if it is to proceed with a Part 5 right to buy application.

Part B is for the land owner to complete and return to the community body. There is no statutory requirement for the land owner to do this, and no penalty shall be incurred by any land owner failing to respond to the Part 5 community body. However, failing to respond within 6 months will allow the Part 5 community body to proceed with their application. A land owner may engage with the local community outwith the formal process provided by this form, but such engagement will not be considered a response to this request under the 2016 Act.

PART A – TO BE COMPLETED BY THE PART 5 COMMUNITY BODY

Name and registered address of the Part 5 community body applying for consent to exercise a right to buy land for sustainable development under the 2016 Act.

Other relevant contact details. Please provide any other contact details for the Part 5 community body, such as e-mail and phone number where applicable.

Where applicable, the name, registered address and contact details of any third party purchaser that the community wish the land to be transferred to.

Proof that the community body is a compliant Part 5 community body under the terms of section 49 of the 2016 Act. The community body must use this box to indicate what proof is enclosed, so that the land owner who receives this form can check that the stated proof is present. The proof must include a copy of written confirmation from Scottish Ministers, in compliance with section 49(7) of the 2016 Act, that Ministers are satisfied that the main purpose of the community body is sustainable development.

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Address and description of the land which the Part 5 community body wishes to buy.

Any tenant's interest that the community body is seeking to acquire that relate to the land it is seeking to acquire.

A description of what the community wants to do with the land and where applicable the tenant's interest, that it is seeking to acquire.

Proposed terms of transfer to the community body, for example purchase (in which case what price is proposed) or some other method.

Signature. In order for this form to be valid, please sign and date it on behalf of the Part 5 community body.

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Signature:

Date:

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PART B – TO BE COMPLETED BY THE LAND OWNER

If you wish to respond to the Part 5 community body, please tick one of the following boxes only, and return this part to the Part 5 community body at the address they have used in Part A of this form.

If you do not respond to a valid Part 5 community request within 6 months of receiving it, for the purposes of section 56(3)(a) of the Act you will be regarded as having not responded to the Part 5 community body, and the Part 5 community body will, subject to other relevant requirements of the Act, be able to make a formal application to Scottish Ministers to acquire the land and assets they have referred to in Part A of this form.

Option 1 - I agree in principal to the community's proposals for transfer of the land on the terms they propose. Please contact me to discuss the transfer. (**Please note**, agreeing to the community's proposals for transfer in principal does not in any way constitute a formally binding legal agreement to transfer the land).

Option 2 – I do not agree to the Part 5 community proposal to transfer of the land on the terms they propose.

Option 3 – I do not agree to the Part 5 community proposal to transfer the land to them on the terms they propose, but would like to discuss the transfer proposal with them further. (This may for example include alternative terms of transfer, or opportunities for transfer of other areas of land or different assets. **Please note**, If you tick this box, for the purposes of section 56(3)(a) of the Act you will be regarded as having not agreed to the community's proposals. However, it does give you an opportunity to discuss options with the community that do not rely on the Part 5 process.)

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Further information

Please use this box to make any further comments on the community's proposals, and to refer to any further letters or documents you are enclosing within your reply to them.

Extra Notes

Compulsory purchase transfer subject to full price being paid

Please note, that if you do not respond to a community body's valid request to buy your land, or you respond but do not agree to the community body's proposed terms, that where any subsequent application by the community body to Scottish Ministers to buy that land under Part 5 is approved, the transfer may only go ahead if the Part 5 community body pay the price for the land that is established by a suitably qualified and independent valuer that has been appointed by Scottish Ministers. If the transfer goes ahead via compulsory purchase under Part 5, you will therefore receive the full value of your land as determined by this person, and you have a right to appeal against the valuation, as well as a right to appeal against Minister's approval of the Part 5 transfer.

Opportunities for alternative solutions – Part 4 Guidance

While not part of the official Part 5 process, it is always an option for a land owner to meet with the community body to see if an agreement could be reached outwith the formal Part 5 process.

For example, if you do not wish to agree to the whole of the Part 5 community body's proposals, but are open to transferring some of the land to the community body or to allowing the community body to use some or all of the land through other means, there may yet be an alternative solution which is satisfactory for both you and the community body. This could involve land transfer, leases, or making use of land in some other way.

The Scottish Government's Guidance on Engaging Communities in Decisions Relating to Land (the "Part 4 Guidance") provides advice on effective engagement with communities. See the following web link.

<https://www.gov.scot/publications/guidance-engaging-communities-decisions-relating-land/>

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To support this guidance, the Scottish Land Commission has issued a protocol on community engagement in decisions relating to land. This can be found at: https://landcommission.gov.scot/wp-content/uploads/2019/01/SLC-PROTOCOL_web-30.1.19.pdf

Where a land owner or tenant, in good faith, is already engaging with their local community, this may provide opportunities to discuss the voluntary transfer of land, or other ways of making use of the land to achieve better local outcomes.