

THE COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 – A SUMMARY (February 2017)

Community Empowerment and Engagement

Scotland's communities are a rich source of energy, creativity and talent. They are made up of people with rich and diverse backgrounds who each have something to contribute to making Scotland flourish. Central and local government needs to help communities to work together and release that potential to create a more prosperous and fairer Scotland.

The Scottish Government is taking forward action in a number of areas to empower communities in Scotland. Information on these actions is available on the Scottish Government website at <http://www.gov.scot/Topics/People/engage>

The Act

The Community Empowerment (Scotland) Act 2015 will help to empower community bodies through the ownership or control of land and buildings, and by strengthening their voices in decisions about public services.

There are 11 topics covered by the Act. This summary gives a brief description of each topic and how they are being implemented by the Scottish Government.

The Bill was passed by the Scottish Parliament on 17 June 2015. It received Royal Assent and became an Act on 24 July 2015. Each part of the Act will come into effect at different times, depending on how much preparation is needed.

Part 1: National Outcomes

This requires Scottish Ministers to continue the approach of setting national outcomes for Scotland, which guide the work of public authorities.

Ministers must develop and publish a set of national outcomes. Before they do so they must consult people who represent communities in Scotland, and the Scottish Parliament. They must also have regard to reducing inequalities.

Ministers must regularly publish reports on progress towards these outcomes, and review them at least every five years.

Public authorities and other organisations that carry out public functions must have regard to the national outcomes in carrying out their devolved functions.

Part 1 came into force on 15 April 2016.

Part 2: Community Planning

Community Planning is a process which helps public agencies to work together and with the community to plan and deliver better services which make a real difference to people's lives. It was introduced by the Local Government in Scotland Act 2003.

The Community Empowerment Act lists all the public authorities which take part in community planning and places new duties on them. These authorities form a Community Planning Partnership (CPP) for each local authority area.

The CPP must prepare and publish a local outcomes improvement plan (LOIP) which sets out the local outcomes which the CPP will prioritise for improvement. Tackling inequalities will be a specific focus. They must also produce "locality plans" at a more local level for areas experiencing particular disadvantage. All partners must take account of these plans in carrying out their functions, and must contribute appropriate resources to improve the priority outcomes.

Participation with communities lies at the heart of community planning. CPPs must support community bodies to participate in all parts of the process, in the development, design and delivery of plans and in review, revision and reporting of progress.

Part 2 came into force on 20 December 2016. More information is available at <http://www.gov.scot/Topics/Government/PublicServiceReform/CP>

Part 3: Participation Requests

Participation requests will allow a community body to enter into dialogue with public authorities about local issues and local services on their terms.

Where a community body believes it could help to improve an outcome which is delivered by a public service, it will be able to request to part in a process with the public service authority to improve that outcome. This could include suggesting how service providers could better meet the needs of users, offering volunteers to support a service or even proposing the community body could take over the delivery of the service themselves.

The public body must agree to the request and set up a process unless there are reasonable grounds for refusal. At the end of the process the public body must publish a report on whether the outcomes were improved and how the community body contributed to that improvement.

Guidance on participation requests is being prepared and Part 3 will come into force early in 2017.

Part 4: Community Rights to Buy Land

The Land Reform (Scotland) Act 2003 provides opportunities for rural communities and crofting communities to buy land. The Community Empowerment Act makes changes to the 2003 Act in three areas:

- (a) It extends the community right to buy to all of Scotland, urban and rural, and improves procedures. The local community can register an interest in the land, then if the land comes up for sale they have first choice to buy the land. This depends on the landowner deciding to sell the land.

The changes to the community right to buy came into effect on 15 April 2016.

- (b) It introduces a range of measures to amend, and in some areas simplify, the crofting community right to buy.

A consultation on key policy questions relating to the crofting community right to buy took place in summer 2016 and can be seen here:

<https://consult.scotland.gov.uk/community-land-team/right-to-buy/>

- (c) It introduces a new provision for community bodies to purchase land which is abandoned, neglected or causing harm to the environmental wellbeing of the community, where the owner is not willing to sell that land. This is if the purchase is in the public interest and compatible with the achievement of sustainable development of the land.

A consultation paper on key policy questions relating to this right took place in summer 2016 and can be seen here: <https://consult.scotland.gov.uk/community-land-team/abandoned-land/>

Part 5: Asset Transfer Requests

This gives community bodies a right to request to buy, lease, manage or use land and buildings belonging to local authorities, Scottish public bodies or Scottish Ministers.

Relevant authorities will be required to publish a register of the land they own or lease, to help communities identify suitable property.

The community body must set out what it plans to do with the land and what benefits it will bring. The authority must consider, amongst other things, whether the proposals will improve economic development, regeneration, health, or social or environmental wellbeing, or reduce inequalities. The benefits of the community body's proposals must be compared to the benefits of any other proposals, including continuing the current use or sale on the open market. The request must be agreed to, unless there are reasonable grounds for refusal.

The Act does not say whether the community body should pay full market value for the property or should be allowed a discount. The guidance includes advice on the assessment of non-financial benefits.

Part 5 came into force on 23 January 2017. Guidance on asset transfer is available at <http://www.gov.scot/Topics/People/engage/AssetTransfer>

Part 6: Delegation of Forestry Commissioners' Functions

This amends the Forestry Act 1967 to allow different types of community body to be involved in forestry leasing, to provide better alignment with asset transfer. This opportunity is available under the new Community Asset Transfer Scheme (CATS) for Scotland's National Forest Estate <http://scotland.forestry.gov.uk/managing/get-involved/community-asset-transfer-scheme> .

Part 6 came into force on 23 January 2017

Part 7: Football Clubs

The Scottish Government is committed to ensuring that Scottish football supporters have the opportunity to be involved in the decision making and running of their football clubs wherever possible.

The Act provides powers for Ministers to make regulations to facilitate supporter involvement and give fans rights in these areas. A consultation has been held on this issue seeking views on four broad options:

A right to influence – to enshrine the rights of supporters to influence their football club.

A right to govern – to give supporters a right to govern their football club.

A right to bid - to give supporters the right to bid for their football club in the case of its sale.

A right to buy- to give supporters the right to buy their football club

Details of the consultation and a report on the responses are available at <https://consult.scotland.gov.uk/active-scotland/supporter-involvement-in-scottish-football-clubs/>

Part 8: Common Good Property

Common Good is a type of property that local authorities may have, which has been passed down by former burgh councils. It often has strong historical and emotional value to local communities, as well as its practical use and financial value.

The Act places a statutory duty on local authorities to establish, maintain and publish a register of all property held by them for the common good. Local people must be consulted on the register, to make sure nothing has been left out. Local authorities will also be required to publish their proposals and consult community bodies before disposing of or changing the use of common good assets.

The Scottish Government plans to issue draft guidance for consultation following the 2017 local government elections.

Part 9: Allotments

The Act updates and simplifies legislation on allotments.

It requires local authorities to maintain waiting lists and take reasonable steps to provide allotments if the waiting lists exceed certain trigger points. It also strengthens the protection for allotments and clarifies the rights of local authorities and plot holders.

Provisions allow allotments to be 250 square metres in size or a different size that is to be agreed between the person requesting an allotment and the local authority.

The Act also requires fair rents to be set and allows tenants to sell surplus produce grown on an allotment (other than with a view to making a profit).

There is a requirement for local authorities to develop a food growing strategy for their area, including identifying land that may be used as allotment sites and identifying other areas of land that could be used by a community for the cultivation of vegetables, fruit, herbs or flowers.

A consultation on regulations on compensation in relation to allotments was carried out from August to October 2015 and is available at <https://consult.scotland.gov.uk/food-and-drink/allotments/>

Part 10: Participation in Public Decision-Making

A new regulation-making power enabling Ministers to require Scottish public authorities to promote and facilitate the participation of members of the public in the decisions and activities of the authority, including in the allocation of its resources. Involving people and communities in making decisions helps build community capacity and also helps the public sector identify local needs and priorities and target budgets more effectively.

A stakeholder event was held in March 2016 to discuss possible areas in which such regulations might be helpful. No decisions on use of the power have been made.

Part 11: Non-Domestic Rates

The Act gives councils a new power to create and fund their own localised business rates relief schemes, in addition to existing national rates relief. This will allow councils to better reflect local needs and support communities.

Part 11 came into force on 31 October 2015.