

PART 2 - COMMUNITY RIGHT TO BUY

APPLICATION FORM GUIDANCE

This guidance has been produced to assist Community Bodies in completing a Part 2 Community Right to Buy application form.

Please note that you cannot submit a Part 2 application until you have formed a compliant community body. Your community body must have received a compliance letter from Scottish Ministers, for your company governing documents, prior to submitting your application. If you are not a compliant community body you should refer to 'Forming and registering your community body' section of our main guidance. The main guidance is available on our website <https://www.gov.scot/policies/land-reform/community-right-to-buy/>

You should fully read the community right to buy main guidance before completing an application, as this will provide you with all the relevant information you need in relation to community right to buy and may answer any questions you have in completing the process. The application form has been designed to ask all the relevant questions required to assist Scottish Ministers in determining an application. The information in this document will guide you on the types of information and supporting documents that are required.

Once you are ready to complete the application form, you should download the form, save it onto your device and complete it electronically. Alternatively, it can be printed and completed manually. Please note that should you require more space within the text boxes provided, additional annexes can be submitted with your application form. Any annexes should be clearly marked to indicate the question to which your answer relates, and a note of the Annex reference should be noted within the relevant section of the application form.

Please ensure you retain a copy of your completed application form and supporting documents for your own reference.

The Community Land Team are happy to look over any draft applications prior to the submission of the final application or answer any questions that cannot be answered by the guidance. Draft applications and questions can be submitted to our team mailbox at crtb@gov.scot

Front Page

The application form has been designed to cover the two types of application that can be submitted under Part 2 Community Right to Buy. You should indicate the type of application you are submitting by marking an X in the appropriate box:

- Timeous application – Where the land is not on the market and no steps have been taken by the owner or creditor in a standard security with a right to sell the land, to transfer the land.
- Late application – **Late applications should only be submitted in exceptional circumstances.** Late applications are in relation to where steps have been taken by the owner or creditor in a standard security with a right to sell the land, to transfer the land. You should read our main guidance carefully, in relation to late applications and you may also wish to contact the Community Land Team at crtb@gov.scot for further guidance/advice, before proceeding with a Late application.

Section 1 – Who is applying

Section 1.1 – You should note the full name of your community body. This should be the same name as noted in your community body's governing document.

Section 2 – Details of who is applying

Section 2.1 – You should provide the registered/principal office for your community body. Depending on your type of community body, the address should match the registered/principal office details recorded with either Companies House, the Scottish Charity Regulator (OSCR) or the Financial Conduct Authority (FCA).

Section 2.2 – You should provide the details of the person who can be contacted in relation to this application. They will receive all correspondence.

Section 2.3 – You should indicate with an X what type of community body you are and include, in the box provided, your official company number as provided by Companies House, the OSCR or the FCA.

You should enclose a copy of your community body's latest governing document, which were approved by Scottish Ministers, along with evidence of your company's registration number provided by Companies House, the OSCR or the FCA. If your company's governing document has been amended, since they were approved by Scottish Ministers, then these will need to be reviewed by Scottish Ministers, prior to the submission of your final signed application form.

Section 2.4 – You should provide a clear description of your defined community. This should match the definition found in your company's governing document. You should also include a rough description of where the community is located in Scotland i.e. county, the towns/main settlements and a geographic description of the North, South, East and West boundary that the community represents. You can also make reference to any maps you are supplying to illustrate the community boundary.

The map should contain an annex reference number and you can note this annex reference within your answer i.e. the map illustrating the defined community is located at Annex X with the community boundary shown in X colour.

Please note, there are certain requirements that all maps should contain. The map should show North, indicate a 4 figure OS grid reference number (e.g. NT1234), show the scale of the map and any boundaries should follow Ordnance Survey features where possible, and where not possible, points and measurements will be required. Further information on mapping requirements is available to view in our mapping tool guidance (<https://www.gov.scot/publications/land-reform-mapping-tool-guidance/>) and any maps produced through the use our mapping tool will automatically have all of the above requirements applied to the map upon selecting the 'Print' function.

Section 2.5 – You should note the number of maps you are supplying to demonstrate the community boundary only. Sections 3.4 and 3.5 of the application form deal with the maps of the land to be registered.

Section 2.6(A) – This figure should be the total number of members in your community body.

Section 2.6(B) – This should be a breakdown of your community body's membership i.e. X Ordinary members, X Associate members and X Junior members. The combined total of these figures should match the figure provided at 2.6(A).

Section 2.6(C) – You should provide the names, addresses and membership category for each of your members. For data protection purposes, you may wish to remove the members telephone numbers and email addresses. The details here should match those provided at 2.6(A) and 2.6(B). You may also wish to note, in brackets, those members that are Directors/Trustees of the company i.e. Elected Director/Trustee, Appointed Director/Trustee, Co-opted Director/Trustee.

Section 3 – The land to be registered

Section 3.1 – You should mark an X against all the types of land that your application relates to. If indicating other, please provide additional information in the text box provided.

Section 3.2 – You should provide the approximate area of the land you are registering. Our community mapping tool has in-built functionality for this purpose and can be used to measure an area of land. Instructions are provided in our mapping tool guidance (<https://www.gov.scot/publications/land-reform-mapping-tool-guidance/>).

Section 3.3 – Please note that in order to tie in with the Register of Sasine's, we require the pre 1974 county to be noted.

Section 3.4 – You should provide a clear description of the land you are registering. You should provide a description of the North, South, East and West boundary of the land and include the condition of the land and any buildings etc. The map of the land

to be registered should contain an annex reference number and you can note this annex reference within your answer i.e. the map demonstrating the land to be registered is located at Annex X with the boundary of the land to be registered shown in X colour.

Please note, there are certain requirements that all maps should contain. The map should show North, indicate a 4 figure OS grid reference number (e.g. NT1234), show the scale of the map and any boundaries should follow Ordnance Survey features where possible, and if not, points and measurements will be required. Please view our mapping tool guidance and mapping tool for further information in relation to mapping. <https://www.gov.scot/publications/land-reform-mapping-tool-guidance/>

Section 3.5 - You should note the number of maps you are supplying to illustrate the land to be registered only.

Section 3.6 – You should indicate, by marking an X in the relevant box, if you are seeking to register a community interest in salmon fishing rights, which are owned separately from the land to be registered.

Section 3.7 - You should indicate, by marking an X in the relevant box, if you are seeking to register a community interest in mineral rights, which are owned separately from the land to be registered. Please note that you cannot register a community interest in rights to oil, coal, gas, gold, or silver.

Section 3.8 - Land can be subject to certain conditions or designations i.e. a planning application under consideration or planning permission granted on the land, a designation in the local plan or the land may have an agricultural tenant etc. You should check these, as it may have an impact on your proposals for the land. If any conditions apply you should indicate these and provide relevant details. You could for example provide a reference to the local plan, if the land has a particular designation or reference numbers in relation to any planning applications/permissions over the land.

Section 3.9 – You should indicate the connection the community have with the land to be registered:

- If choosing check box one you should provide information in relation to the significant connection the community has with the land to be registered. This option should be selected if the community currently have access to or uses the land to be registered. You could consider providing figures on the number of people that use the land on a daily, weekly, monthly, or yearly basis or if people or particular groups, from within the community, use the land for a particular purpose.
- If choosing check box two you should indicate the connection to other land used within the community by the community members and the connection they have with these other areas of land. This option would normally be selected if the land to be registered is located in the community and cannot be accessed by the community. The other areas of land that the community use,

could include other community owned land or buildings, schools, shops, churches, village hall, parkland etc.

- If choosing check box three you should indicate the connection with the land that is in or near the community. This option would normally be chosen for land you wish to register, that is not within the community's defined boundary i.e. nearby land. You may wish to indicate, how the community interact with this land, if the land is used for a particular purpose by the community and why this land, which is not within the community, is important to the community.

Section 4 – Ownership & Interests

Scottish Ministers require details of who the owner is (or owners if in joint ownership) and if there are any heritable creditors (mortgage holders or anyone with a right to sell the land). You should include details of all the checks carried out to identify ownership. A prohibition letter, preventing the disposal of the land until the application is considered, is issued to all the owners and creditors identified, on receipt of the application. Incorrect ownership or heritable creditor details will result in the application being declined.

If after completing all checks to establish ownership/creditors and the owner/creditor is still unknown, you must complete the unknown owner/creditor steps as detailed in the main guidance, prior to submitting an application form.

Section 4.1 – The ownership details for the land should be provided. You should contact Registers of Scotland to obtain the title deeds for the land, which will detail the owner and heritable creditors. If the owner is an organisation registered in Scotland or the UK, then a search of the Companies House Register, the Scottish Charity Register (or UK equivalent) or the Financial Conduct Authority, should identify details of the current registered office for the organisation.

Section 4.2 – Details of any joint or common owners can be provided in this section.

Section 4.3 – You should provide the details for any heritable creditors. Heritable creditors have rights to dispose of the land. These tend to be mortgage companies, who if the owner defaults on a mortgage, could take action to sell the land. These details may be found in the Title Deed. You should check the registered office details noted in the Title Deeds to make sure the registered address for the company is correct.

Section 4.4 – You should provide the details of all the steps taken to identify the owners and heritable creditors. This should include contacting Registers of Scotland, who hold information on land ownership. You should provide a note of who carried out the searches with Registers of Scotland, or any other ownership checks and when these were carried out. If you have obtained evidence of ownership from Registers of Scotland, such as a Title Deed, this can be included as an annex and a reference to the annex should be noted in your answer. You may wish to complete a further check on ownership, just prior to submitting your final application, to ensure that the most up to date information is provided.

Section 4.5 – If the owner/creditor is unknown, you must provide information in relation to the steps you have taken to try and identify them. You must have advertised in a local paper to try to find the owner/creditor and also fix a sign to the land, for a 14-day period, to give the owner/creditor the chance to make contact. Please see our main guidance for further information regarding unknown owners.

Section 5 – Late Application Evidence

If your Community Body has indicated on the front page that you are submitting a “Late” application i.e. 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 of the land, you must complete Section 5. If your application is timeous, do not complete section 5 and go to section 6.

Late applications should only be submitted in exceptional circumstances. The owner or heritable creditor will have taken steps to transfer the land and any application submitted at this stage is effectively interfering in the live land market. It is therefore important that you complete the relevant late questions in section 5 and produce as much relevant evidence as possible. You may also wish to consider, if the land is on the market, making an offer to purchase out with the legislation.

If you have not formed a compliant community body and are reacting to the sale of the land, then it is unlikely that you will have the evidence required for a late application. Please note that it can take around 4 to 6 weeks for Scottish Ministers to review a company’s governing document and you cannot submit an application until your company’s governing document has been approved by Scottish Ministers.

You should carefully read the main guidance, in relation to Late applications, before proceeding with an application.

Section 5.1 – You should provide details and evidence of all relevant work/steps taken by any person with a view to submitting a Community Right to Buy application in relation to the land subject of this application, or other similar land for which the same purposes are proposed. This could include work you were carrying out in relation to submitting a timeous application over this land or similar land. You may wish to provide a timeline of events, which would assist in setting out the steps that were being taken, to try to acquire the land or similar land using Community Right to Buy. If your community body did not carry out work or take relevant steps, as indicated at section 5.1, then you should complete section 5.2.

Section 5.2(A) - If your community body did not carry out work or take relevant steps, as indicated at section 5.1, you should explain and provide reasons why relevant work/steps were not carried out in relation to submitting a Community Right to Buy application, prior to steps by the owner to transfer the land. Please note that if the land has unexpectedly come on the open market, and your application is a reaction to the sale, then this alone will not be sufficient to justify a late application. Please also note that the steps taken by an owner to dispose of the land can be taken well in advance of the land appearing on a marketing website or a for sale sign appearing on the property.

Section 5.2(B) - You should provide reasons why Scottish Ministers should approve your late application, despite relevant work or steps not being taken. These reasons should be robust, and evidence should be submitted for any reasons provided.

Section 5.3 – You should indicate if the owner or creditor in a standard security has offered to sell the land to the community body, within the last 12 months. If so, you will need to provide reasons why the community body did not proceed with the purchase of that land.

Section 5.4 - Your community body is required to confirm, to the best of your community body's knowledge, whether the owner or creditor in a standard security has offered to sell the land, within the last 12 months, to another community body. If they have, your community body needs to provide reasons why that community body did not proceed with the purchase of the land.

Section 6 – Community Support

Scottish Ministers need to be satisfied that there is within your community, a sufficient level of support to justify the registration of your community body's interest in land. The support is obtained from those individuals aged 16 years old and over, who are resident within your defined community and are eligible to vote at a Local Government election. Support is normally demonstrated in the form of a petition list. Please note that electronic petition lists cannot be accepted. We have a model petition template available on our webpages that can be amended to suit your needs. <https://www.gov.scot/publications/community-right-to-buy-application-form-and-guidance/>

For a timeous application, you should provide evidence of a minimum of 10% support from your defined community. For late applications, you are required to provide a significantly greater level of support, than the 10% required for a timeous application. In the past, Ministers have accepted support of over 15% for late applications. Whether your application is timeous or late you are encouraged to obtain as much support for your application as possible.

Section 6.1 – You should mark whether your community body has the relevant support for your application. If you do not have a minimum of 10% support for a timeous application or a significantly greater level of support for a late application, then you should explain why you feel there is a sufficient level of support to justify the registration and you should provide supporting evidence.

Section 6.2 (A) – In order to determine the number of eligible voters within your defined community, you should contact your local Electoral Registration Office. They should be able to supply you with a figure that can be inserted at section 6.2(B) of the application form. This figure can be used to help you determine the percentage of support you have achieved. Any evidence (letter/email) from the Electoral Registration Office, supplying the number of eligible voters within your defined community, can be attached and referenced as an annex to the application form.

You should also include an annex reference for the petition list and indicate the date range that the signatures were gathered. Please note for signatures to be valid, they must have been gathered within 6 months of submitting the final signed application.

Section 6.2(B) – In order to complete the figures in relation to community support, you should fully check your petition list. In order to validate the signatures, they should be checked against the Full Electoral Register. You are unable to obtain a copy of the Full Electoral Register, however, it is open for inspection and can be viewed at your local library or Electoral Registration Office. You can take your petition to the relevant office and check each name against the Full Electoral Register.

An alternative way of checking the petition could be to obtain a copy of the Open Electoral Register (electronically or hard copy). There will be a cost for this, which the community body would need to meet. For those names that you cannot find on the Open Electoral Register, you could complete the check noted above in relation to the full register. Any steps taken to verify the petition can be noted in section 6.2(A) of the application form and again any evidence can be supplied as an annex. Please note, Scottish Ministers will also check the petition and should they be unable to confirm the minimum level of support required, the application will be rejected.

Section 7 – Proposals for the Land

Scottish Ministers require information about your proposals for the land and the benefits they will provide. The proposals and benefits should contribute to the sustainable development of the land and the community. This information will be assessed by Scottish Ministers when determining whether to approve or reject your application. If your application is a timeous application, then you should provide high level details of your community body's plans for the land. If, however, your application is a late application, then you must provide fully worked up plans, i.e. business plan, feasibility study etc. A community body which successfully registers a community interest in land timeously will be required to supply a business plan, feasibility study etc should the Right to Buy be activated.

Section 7.1 - Information of what the community body's proposals are for the land is required, in order to give Ministers an indication of what you plan to do with the land. This is your key proposals for the project, and these can be submitted in bullet point format. The proposals should cover all the land that you are looking to acquire, and you may wish to advise how the proposals will be delivered in the short, medium and long term.

Section 7.2 – You should provide information on how your proposals for the land will help contribute to the achievement of sustainable development. You should indicate how your proposals, detailed at section 7.1, will further the achievement of sustainable development of the land and the community over the short, medium and long term.

Section 8 – Public Interest – (to be completed for both Timeous and Late applications)

As part of the decision on whether to approve or decline the application Scottish Ministers need to consider whether the application is in the public interest.

Section 8.1 - You are required to provide reasons why the community body considers that it is in the public interest for Scottish Ministers to consent to register the right to buy application. You can use information previously supplied at other questions to assist in your answer, if relevant. You may wish to provide information on your project under the 3 sustainable development headings Social, Economic and Environmental. You should provide information with regards to the benefits of your proposals to the community. An example of some of the things to cover are noted below. However, you may have other information in relation to sustainable development and the public interest, which can be included.

Social sustainable development:

- Will it help reduce and improve social interaction in the community?
- Will it help create employment, training, volunteering opportunities?
- Will the whole community benefit and have the opportunity to use and contribute to the project?

Environmental sustainable development:

- What environmental improvements will your proposals bring to the land?
- Will you develop or provide any environmental benefits?
- Will the project use environmentally friendly materials?

Economic sustainable development:

- What economic benefits will it bring?
- Will it retain capital in the community?
- Will surplus income be used to reinvest in the project or support other projects in the community?

Note regarding Public Interest and Late Applications

Where the application is a “Late” application, your answer in relation to the public interest has to be more robust than that for a timeous application. Scottish Ministers need to consider whether it is strongly indicative that it is in the public interest to approve your application. You should provide evidence for the need for the project and why you require this land. Can the project you propose be created on other land, within the community, that is not currently being disposed of? If not, why not? Is there a real need for this project within the community?

You may wish to provide evidence of any community consultation or questionnaires that have involved canvassing the views of members of the community. You may also wish to consider providing your feasibility study/business plan for your project.

If a late application is approved, then you proceed straight to the right to buy stage. It is therefore important, at application stage, that you have an idea of costing for the proposed purchase and development of the asset. You should have an idea of where you propose to find the money required to purchase the land i.e. grant funding, fund raising, mortgage etc. Have you approached any funders and been given an indication of the funding that may be available. If so, you may wish to include evidence of any offer letters or offers in principle.

Section 9 – Declaration

Once you have completed your application you should read the full declaration statement and have the application signed and dated by two board members who are also members of the community i.e. Elected Directors/Trustees. The final application cannot be submitted until it is signed and dated.

Checklist of supporting documents

Please note this checklist is to give you an idea of the types of information other community bodies have submitted in support of their application. This is not a comprehensive list and you can provide other evidence that you feel would support your application.

- Governing document, i.e. Articles of Association, Constitution or Registered Rules. This should be your latest compliant version and should match the version approved by Scottish Ministers. This version must be registered with the relevant regulator, i.e. Companies House, the OSCR or the FCA.
- Confirmation of the community body's registration number, i.e. company number, charity number or society number. A copy of a letter/certificate from the relevant regulator (Companies House, the OSCR, the FCA) approving your community body.
- Map of your defined community boundary. This map should contain all the required mapping elements.
- Full Membership List broken down into membership categories. This should be an up-to-date list. You should check this prior to submitting your application to make sure all members are noted against their relevant category.
- Map of the land to be registered. This map should contain all the required mapping elements.
- Any additional information in relation to planning consent, local plan etc. You should check the relevant local authority website for information on the local development plan and for any planning applications/permissions. You may also wish to include any information on any burdens/restrictions over the land.
- Copy of the Title Deed for the land or other ownership documentation. The Title Deed should contain the information on the owner and any heritable creditors. If a company owns the land you may wish to check with Companies House for the most up to date contact details or the OSCR, if owned by a charity. Checks on ownership should be completed just prior to submitting the application in order that the information provided is as accurate as possible.
- Late application (Timeline of events). You may wish to provide a comprehensive timeline in relation to events surrounding your application and when steps by the owner were taken to transfer the land. Please note that steps to transfer the land by the owner could have been taken well in advance of the land appearing on a marketing website or for sale signage being placed on the land. Your timeline should include all Community Right to Buy application steps and any other steps you feel are relevant.

- Other information in relation to the application being late. Any other information you feel may be helpful in demonstrating your case to Scottish Ministers.
- Petition list or other form of evidence of support. Normally a petition list is submitted in support of an application. The petition list should be checked by your community body, prior to submission, to determine that all those supporting the application are eligible to do so. Those eligible should be 16 years old or over, be resident within your defined community and eligible to vote in a local government election.
- Evidence of the number of eligible members of the community (email or letter from Electoral Registration Office). You should contact your Electoral Registration Office to request a figure for those 16 years old or over, who are resident within your defined community and eligible to vote in a local government election.
- Copy of edited electoral register (if acquired to check support). Some community bodies request a copy of the open Electoral Register for their defined community. This can be used to check the eligibility of those signing the petition list and to check membership categories. Those not found on the open Electoral Register can be checked against the full Electoral Register, which is available for inspection at your local library or Electoral Registration Office.
- Business plan or feasibility study. Some groups may be at an advanced stage with their plans and may wish to provide this. Although these are not a requirement for a timeous application, they are required to be submitted with a late application and assist in determining whether your case is in the public interest.