



COMMUNITY RIGHT TO BUY ABANDONED, NEGLECTED OR DETRIMENTAL LAND



Explanatory Guidance Note on the Application for Consent

The application form has been designed to ask for all the relevant information required to assist Scottish Ministers to make a decision on whether to grant or decline consent to a community body (“CB”) to exercise a right to buy abandoned, neglected or detrimental land. Although full guidance is available in the main guidance booklet, this quick guide to the application has also been produced in order to assist CB’s.

A CB must submit additional supporting annexes with the application (i.e. governing documents, certificate of incorporation (or equivalent), maps etc.), but can submit any other additional supporting annexes if they wish.

The application form can be:

- printed off, completed manually and posted back to Scottish Ministers, or
- it can be downloaded and completed (by tabbing or clicking into the answer boxes) and submitted via email to Scottish Ministers.

The application form contains 10 sections. The following pages provide quick guidance on the information required under each section. The application form (and the requirements of the Land Reform (Scotland) Act 2003 (“the Act”)) requires your CB to state in detail your proposals for the use of the land. Details of proposed uses may help to demonstrate how any proposed land use is compatible with furthering the achievement of sustainable development and how the CB’s application is in the public interest. If consent is granted, the sale is **compulsory** and therefore a **fully thought out business case** is required.

SECTION 1 – WHO IS APPLYING

Please provide the full name of the CB who is applying (i.e. your organisation’s name).

SECTION 2 – DETAILS OF WHO IS APPLYING

In this section your CB is required to provide:

- 2.1 Your registered or principal office.
- 2.2 A contact and address you wish all correspondence sent to.
- 2.3 Confirm what type of CB you are and that you have submitted your governing documents (i.e. articles of association, constitution or registered rules) and official number (company number, charity number or registration number) as applicable. You must demonstrate that you comply with section 97D of the Act and consider including a copy of the compliance letter that the CB was issued with.

- 2.4 A clear written description of your community (as defined in your governing document). You should also include a rough description of where the community is located in Scotland (i.e. the county, towns/main settlements and a description of the North, South, East and West boundary that the community represents).
- 2.5 Confirmation of how many maps, plans or other documents are being supplied which show your CB boundary.
- 2.6 Details of your CB membership (including total number of members and a breakdown of the membership types, including all members contact names and addresses). This will allow Scottish Ministers to confirm that you are complying with the requirements of section 97D of the Act.

SECTION 3 — THE LAND IN RESPECT OF WHICH THE RIGHT TO BUY IS SOUGHT TO BE EXERCISED

The form asks you to provide certain information about the land in respect of which the CB is seeking to exercise the right to buy. Scottish Ministers need to be able to identify the precise location of the land that your CB wants to acquire. They also need to understand your CB's proposals for the land, and your community's connection with that land.

In this section you are required to provide:

- 3.1 The description of the type of land your CB is applying to acquire (you can select more than one option if the land has different uses).
- 3.2 If known, the estimated area of land being acquired.
- 3.3 The county the land is located in (i.e. the name of the county should be set out according to its pre-1974 designation (e.g. Berwickshire, Argyllshire etc.)).
- 3.4 A clear written description of the land to be acquired, including the North, South, East and West boundary of the land. This can also include how the land is currently being used and its current condition.
- 3.5 Confirmation of how many maps, plans or other drawings are being supplied.
- 3.6 Your CB needs to inform Scottish Ministers of your connection to the land. This is done by confirming which option best describes your communities connection. You are then required to provide a clear written explanation of your connection to the land.
 - If choosing to check box one you should provide information in relation to the significant connection the community has with the land to be acquired. This option should be used if the community currently have access to or use the land.
 - If choosing to 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 this other area of land. This option would normally be chosen if the land to be acquired cannot be accessed by the community.
 - If choosing to 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 acquire that is not within the community boundary i.e. nearby land.

SECTION 4 – OWNERSHIP & INTERESTS

Scottish Ministers require details of who the landowner is (or landowners – if in joint or common ownership), any creditor with a standard security over the land and any tenant occupying or in possession of the land. Your CB should include details of the checks carried out to identify these people, as Scottish Ministers will use this information to issue the prohibition, which ensures that the land cannot be sold while the application is being considered.

In this section you are required to provide:

- 4.1 The details of who the owner of the land is (this information can be found through searching the title deed (Registers of Scotland can provide this service). If it's an organisation, then a search of Companies House, Office of the Scottish Charity Regulator or the Financial Conduct Authority should identify details of their current registered office).
- 4.2 Please enter the owner's agent or representative, if known.
- 4.3 It's not uncommon for the land to be owned by joint or common ownership. If during your checks you identify this, you should provide the other owners contact details here (as all owners will receive the prohibition). If more than one owner is identified, under 4.1 you should select just one name and contact, and enter the others in this section.

Please note that if there are multiple titles, even if each is owned by the same person (or commonly or jointly owned by the same people), the CB must submit an application for each individual title.

- 4.4 Scottish Ministers need to be satisfied that you have completed checks to confirm the ownership. You need to detail all steps that were undertaken to identify the ownership. **(If you supply incorrect ownership details or do not note owners or creditors, it will result in Scottish Ministers declining to consider the application).**
- 4.5 There may be individuals or organisations with rights that are enforceable against the title to the land, for example, a mortgage provider. You need to provide this information (details of which should appear on the title deed). If you are aware of anything that prevents the owner from selling the land, please give details.
- 4.6 Please give details for each standard security over the land. These can be found on the title sheet for the land. Also, if the owner is a company, these can also be found by searching the Companies House website.
- 4.7 Please confirm whether there are any tenancies over the land or part of it. Please give details of each tenancy.
- 4.8 Each box should be checked to show that you have determined whether they apply or not. You may wish to view the local authority planning website for any information regarding the land.
- 4.9 If you answered "Yes" to any of the boxes in 4.8 you should provide details of this within this section and you should supply copies of any relevant documents to evidence your answer.
- 4.10 The relevant box should be checked depending on whether you are aware of any other existing rights or interests in the land, or part of it.
- 4.11 Only complete this box if you indicated "Yes" to 4.10, giving details of each right or interest.
- 4.12 Please state the number of maps, plans or other drawings attached which show the location of all the rights or interests noted in this section (if possible).

SECTION 5 – ELIGIBILITY OF LAND

This section deals with the eligibility of the land and information regarding any relevant regulators, and actions taken by them, to remove any harm.

- 5.1** Please select the relevant box, under 5.1.1 and 5.1.2, in determining the eligibility of the land.
- 5.2** Please attach evidence for why you answered “Yes” to either 5.1.1 or 5.1.2, though no evidence is required for selecting “No”.
- 5.3** If you chose to answer 5.1.2 with a “Yes”, please consider if there are any relevant regulators. For example, if there is a waste water issue with the land then the relevant regulator might be the Scottish Environmental Protection Agency (SEPA).
 - 5.3.1.** If you do not consider there to be any relevant regulators please state why you consider this to be the case.
 - 5.3.2.** Please give the name and details of each relevant regulator. You should also explain why these regulators are relevant e.g. Local authorities and SEPA might both be regulators for contaminated land.
 - 5.3.3.** Please provide evidence of the request to each of the relevant regulators to fix the issues with the land, the response received and any actions taken by the regulator.
 - 5.3.4.** Please state why you believe that the continued ownership of the land by the current owner will mean it will be unlikely that the harm will be removed, or substantially removed.
 - 5.3.5.** Please state why you believe that the CB seeking to purchase the land is compatible with removing or substantially removing the harm. This could be tied in with your proposals for the land at section 8.

SECTION 6 – STEPS TAKEN TO BUY THE LAND

- 6.1** Please state the steps taken by the CB to buy the land. Prior to the submission of an application, the Part 3A CB must have tried to buy the land in order to meet the requirements of the Act. Please include date(s) of when the Part 3A CB tried to buy the land, details of the offer and to whom it was made. This may be best evidenced by drawing up a timeline, and including copies of any correspondence to and from the owner/heritable creditor. The amount of the offer to purchase the land should also be stated. You may wish to include any valuation carried out in order to determine the offer made as well as evidence of any funding that you have in place, or are actively seeking, to make the offer.

SECTION 7 – COMMUNITY SUPPORT

Scottish Ministers need to be satisfied that there is, within your community, a sufficient level of support to justify acquisition of the land. The support is obtained from those who are eligible to vote at a local government election and live within your defined community.

Under the Act, you must have carried out a ballot of the eligible voters within your defined community during the six months prior to the submission of your application to Scottish Ministers.

- 7.1 You are asked to confirm whether you have attached the ballot to the application, or whether the ballot results have already been notified to Scottish Ministers and, if so, when. The result of the ballot has to be notified to Scottish Ministers within three weeks of the results of the ballot being counted, so your answer depends on when the ballot was undertaken in relation to the application being submitted. The result of the ballot, whether it is included with the application or beforehand, must be submitted in the relevant form.

SECTION 8 – PROPOSALS FOR LAND

Scottish Ministers require supporting information about your CB's proposals and benefits for the land, (and an indication on whether the proposals will contribute to sustainable development). All of this will be taken into account by Scottish Ministers in making their decision on whether to consent to your CB's application to acquire the land.

Scottish Ministers require:

- 8.1 An explanation of what the CB's proposals for the land are. If evidence for the need for your proposals exists (e.g. a business plan), you can submit this as supporting documentation.
- 8.2 How your proposals for the land will help contribute to furthering the achievement of sustainable development.
- 8.3 How the achievement of sustainable development in relation to the land would be unlikely to be furthered by the current owner.

SECTION 9 – PUBLIC INTEREST

As part of the decision on whether to consent or decline to consent to the application Scottish Ministers need to consider whether the exercise of the right to buy by the CB is in the public interest. Information provided under section 8 or from elsewhere in the application can assist in answering this question and can either be replicated, where relevant, or cross referred, where appropriate.

- 9.1 Reasons why the CB considers that the proposals for the land are in the public interest. You can use information previously supplied in other answers to assist in your answer. Here you should consider describing the benefits of your proposals to the community land (for example):

Social:

- Will it help reduce and improve social interaction in the community?
- Will it help create employment or training?
- Will the whole community benefit?

Environmental:

- What environmental improvements will your proposals bring to the land/community?
- Will you develop or provide any environmental benefits?

Economic:

- What economic benefits will it bring?
- Will it retain capital in the community?

SECTION 10 – DECLARATION

As with any application form, declaration signatures are required before an application can be accepted. It needs to be signed and dated by two different board members, charity trustees or committee members of the CB.

ADDITIONAL SUPPORTING INFORMATION

More detailed guidance on the application form and the Community Right to Buy Abandoned, Neglected or Detrimental Land can be found in our guidance booklet.

The Community Land Team is happy to provide any guidance and support in completing the form, to ensure completeness.

Data Protection

In order to consider an application on the register, there is a requirement to process the personal data provided within any documentation received by Scottish Ministers in relation to that right to buy. The basis for processing this personal data is in accordance with Article 6(1)(c) and/or Article 6(1)(e) of the General Data Protection Regulations (GDPR).

When a community body submits a compliant application under the community right to buy land legislation, the application is entered onto the register. During this process, the community body is required to provide certain information about itself and those who own the land. This information will be used to assess whether the application for consent to exercise the right to buy is approved by Scottish Ministers.

All personal data will be redacted before appearing on the register. The data will be used to assist the Scottish Ministers to determine whether the land purchase should receive consent to proceed.

The data captured will be kept on the register as a record of the application and any decisions. This information is used by other community bodies as a source of information and guidance for their own applications, as well as a historic record of community rights to buy.

What are your rights?

If at any point you believe the information we process on you is incorrect you can request to see this information through a subject access request.

You may have a right to have this information corrected, deleted and to object to or restrict the processing of the information held.

If you wish to raise a complaint on how your personal data is handled, you can contact the Scottish Government Data Protection Officer (dpa@gov.scot) who will investigate the matter.

If you are not satisfied with the response or believe we are not processing your personal data in accordance with the law you can complain to the Information Commissioner's Office (ICO).

The Information Commissioner's Office - Scotland
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Email: Scotland@ico.org.uk