



Land Reform (Scotland) Act 2003

2003 asp 2

PART 3

THE CROFTING COMMUNITY RIGHT TO BUY

CHAPTER 2

EXERCISE OF RIGHT TO BUY

73 Application by crofting community body for consent to buy croft land etc.

- (1) The right to buy under this Part of this Act may be exercised only by a crofting community body.
- (2) That right may be so exercised only with the consent of Ministers given on the written application of the crofting community body.
- (3) That right may be exercised in relation to more than one holding of land or sporting interests but in order so to exercise the right an application must be made in respect of each such holding and applications so made may be differently disposed of.
- (4) In subsection (3) above, a “holding” of land or of a sporting interest is land in the ownership of one person or in common or joint ownership or a sporting interest to which one person is entitled or to which there is a common or joint entitlement.
- (5) Such an application shall be made in the prescribed form and shall include or be accompanied by information of the prescribed kind including information (provided, where appropriate, by or by reference to maps or drawings) about—
 - (a) the location and boundaries of the land or sporting interests in respect of which the right to buy is sought to be exercised (the “subjects of the application”);
 - (b) all—
 - (i) rights and interests in the subjects of the application;
 - (ii) sewers, pipes, lines, watercourses or other conduits and fences, dykes, ditches or other boundaries in or on the land,known to the applicant body or the existence of which it is, on reasonably diligent inquiry, capable of ascertaining;

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- (c) whether the crofting community body proposes to exclude from the eligible croft land which it proposes to buy—
 - (i) salmon fishings in inland waters within or contiguous to; or
 - (ii) mineral rights in,
 - the land;
 - (d) whether the crofting community body proposes a leaseback of sporting interests under section 83 below;
 - (e) the proposed use, development and management of the subjects of the application;
 - (f) whether and how the matters referred to in paragraph (e) above would affect any of the facilities referred to in paragraph (b)(ii) above insofar as those facilities connect with similar facilities on other land or also serve other land; and
 - (g) the extent to which the matters referred to in paragraph (e) above would consist of or support the sustainable use or development of the subjects of the application, including any land or sporting interests previously acquired by the crofting community body.
- (6) A crofting community body applying under this section shall, at the same time as it applies—
- (a) send a copy of its application to the owner of the subjects of the application; and
 - (b) where there is a standard security over an interest in any subjects to which the application relates, send a copy of its application and the accompanying information to the creditor who holds the standard security and invite the creditor—
 - (i) to notify the crofting community body and Ministers, within 60 days of receipt of the invitation, if any of the circumstances set out in subsection (7) below has arisen (or arises within 60 days of receipt of the invitation); and
 - (ii) if such notice is given, to provide Ministers, within that time, with the creditor’s views in writing on the application.
- (7) Those circumstances are that—
- (a) a calling-up notice has been served by the creditor under section 19 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35) in relation to the subjects in which the crofting community body is seeking to exercise its right to buy or any part of those subjects and that notice has not been complied with;
 - (b) a notice of default served by the creditor under section 21 of that Act in relation to those subjects or any part of those subjects has not been complied with and the person on whom the notice was served has not, within the period specified in section 22 of that Act, objected to the notice by way of application to the court;
 - (c) where that person has so objected, the court has upheld or varied the notice of default; and
 - (d) the court has granted the creditor a warrant under section 24 of that Act in relation to those subjects or any part of those subjects.
- (8) On receipt of an application, Ministers shall—
- (a) invite—

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- (i) the owner of or, as the case may be, person entitled to the subjects of the application;
 - (ii) the owners of all land contiguous to land which consists of the subjects of the application;
 - (iii) the Crofters Commission; and
 - (iv) any other person whom Ministers consider to have an interest in the application,to send them, so as to be received not later than 60 days after the sending of the invitation, views in writing on the application; and
 - (b) send a copy of the invitation to the crofting community body.
- (9) If the subjects of the application include land other than eligible croft land, the invitation given under subsection (8)(a)(i) above shall seek the consent of the owner of that eligible additional land to its sale under this Part of this Act.
- (10) Ministers shall, as soon as may be after receiving an application, give public notice of it and of the date by which, under subsection (8)(a) above, views are to be received by them and, in that notice, invite persons to send to Ministers, so as to be received by them not later than 60 days after the publication of the notice, views in writing on the application.
- (11) That public notice shall be given by advertisement—
- (a) in such newspaper circulating in the area where the subjects of the application are situated as Ministers think appropriate; and
 - (b) in the Edinburgh Gazette.
- (12) Ministers shall—
- (a) send copies of any views they receive under this section to the crofting community body; and
 - (b) invite it to send them, so as to be received by them not later than 60 days after the sending of that invitation, its responses to these views.
- (13) Ministers shall, when considering whether to consent to an application under this section, have regard to all views on it and responses thereto which they have received in answer to invitations under this section.
- (14) Ministers shall decline to consider an application which—
- (a) does not comply with the requirements of or imposed under this section;
 - (b) is otherwise incomplete;
 - (c) discloses that the subjects of the application, or any part of them, are not within the respective definitions in sections 68 and 70 above; or
 - (d) otherwise indicates that it is one which Ministers would be bound to reject;
- and Ministers shall not be required to comply with subsections (8) to (13) above in relation to such an application.
- (15) Ministers shall not reach a decision on an application before—
- (a) the date which is 60 days after the last date on which the crofting community body may provide Ministers with a response to the invitation given under subsection (12) above; or
 - (b) if by that date the Land Court has not advised Ministers of its finding on any question referred to it under section 79(2) or 81(1) below in relation to the

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application, the date on which the Land Court provide Ministers with that finding.