



# Community Empowerment (Scotland) Act 2015

2015 asp 6

## PART 5

### ASSET TRANSFER REQUESTS

#### *Requests*

#### **79 Asset transfer requests**

- (1) A community transfer body may make a request in accordance with this section (in this Part, an “asset transfer request”) to a relevant authority.
- (2) An asset transfer request is a request—
  - (a) in relation to land owned by the relevant authority, for ownership of the land to be transferred to the community transfer body, or
  - (b) in relation to land owned or leased by the relevant authority—
    - (i) for the land to be leased to the community transfer body, or
    - (ii) for the authority to confer rights in respect of the land on the community transfer body (including, for example, rights to manage or occupy the land or use it for a purpose specified in the request).
- (3) An asset transfer request of the type mentioned in subsection (2)(a) may be made only by a community transfer body falling within section 80; and references in the remainder of this Part to the making of an asset transfer request by a community transfer body are to be read accordingly.
- (4) A community transfer body making an asset transfer request must specify in the request—
  - (a) the land to which the request relates,
  - (b) whether the request falls within paragraph (a), (b)(i) or (b)(ii) of subsection (2),
  - (c) the reasons for making the request,

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*Status: This is the original version (as it was originally enacted).*

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- (d) the benefits which the community transfer body considers will arise if the authority were to agree to the request,
- (e) where the request falls within subsection (2)(a), the price that the community transfer body would be prepared to pay for the transfer of ownership of the land,
- (f) where the request falls within subsection (2)(b)(i)—
  - (i) the amount of rent that the community transfer body would be prepared to pay in respect of any lease resulting from the request,
  - (ii) the duration of any such lease, and
  - (iii) any other terms and conditions that the community transfer body considers should be included in any such lease,
- (g) where the request falls within subsection (2)(b)(ii), the nature and extent of the rights sought, and
- (h) any other terms or conditions applicable to the request.

## **80 Community transfer bodies that may request transfer of ownership of land**

- (1) A community transfer body falls within this section if—
  - (a) it is a company the articles of association of which include provision such as is mentioned in subsection (2),
  - (b) it is a Scottish charitable incorporated organisation the constitution of which includes provision that the organisation must have not fewer than 20 members,
  - (c) it is a community benefit society the registered rules of which include provision that the society must have not fewer than 20 members,
  - (d) in the case of a body designated by an order under paragraph (a) of subsection (2) of section 77, the order includes provision that the body may make an asset transfer request of the type mentioned in section 79(2)(a), or
  - (e) in the case of a body falling within a class of bodies designated in an order made under paragraph (b) of that subsection, the order includes provision that bodies falling within the class may make an asset transfer request of that type.
- (2) The provision mentioned in subsection (1)(a) is provision that—
  - (a) the company must have not fewer than 20 members, and
  - (b) on the winding up of the company and after satisfaction of its liabilities, its property (including any land, and any rights in relation to land, acquired by it as a result of an asset transfer request under this Part) passes—
    - (i) to another community transfer body,
    - (ii) to a charity,
    - (iii) to such community body (within the meaning of section 34 of the Land Reform (Scotland) Act 2003) as may be approved by the Scottish Ministers,
    - (iv) to such crofting community body (within the meaning of section 71 of that Act) as may be so approved, or
    - (v) if no such community body or crofting community body is so approved, to the Scottish Ministers or to such charity as the Scottish Ministers may direct.

## **81 Asset transfer requests: regulations**

- (1) The Scottish Ministers may by regulations make further provision about asset transfer requests.
- (2) Regulations under subsection (1) may in particular make provision for or in connection with—
  - (a) specifying the manner in which requests are to be made,
  - (b) specifying the procedure to be followed by a relevant authority in relation to requests,
  - (c) specifying the information to be included in requests (in addition to that required under section 79(4)),
  - (d) requiring publication, by such method as may be prescribed in the regulations, of the fact that a request is being made,
  - (e) requiring notification of the making of a request to be given to such persons or descriptions of persons, and in such circumstances, as may be prescribed in the regulations.
- (3) The Scottish Ministers may make regulations for or in connection with—
  - (a) enabling a community transfer body to request information from a relevant authority about land in respect of which it proposes to make an asset transfer request,
  - (b) specifying how the authority is to respond to the request for information,
  - (c) specifying the circumstances in which the authority must provide information,
  - (d) specifying the type of information the authority must provide in circumstances specified under paragraph (c),
  - (e) specifying the circumstances in which the authority need not provide information.