

# COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5: Asset transfer requests**

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

325. [Section 79](#) sets out how an asset transfer request can be made. It must relate to land (which includes buildings) owned or leased by a relevant authority. The community transfer body may ask to have ownership of the land transferred to it, if the land is owned by the relevant authority; it may ask to lease the land from the relevant authority; or to obtain other rights in respect of the land, for example to manage or use it for a specified purpose.
326. Subsection (4) sets out the information which must be included in the request. In addition to specifying the land (or building) to which the request relates, and whether the request is for ownership, lease or other rights, the community transfer body must describe the reasons for making the request and the benefits which it considers will arise if the request is agreed to. It must also state how much the body would be prepared to pay, either to buy the land or in rent, and any other terms and conditions that would apply to the request.
327. [Section 79\(3\)](#) provides that a request for transfer of ownership of land may only be made by a community transfer body which meets the criteria set out in section 80, in addition to falling within section 77. This means it must be a company, a Scottish charitable incorporated organisation (SCIO), a community benefit society, or a body designated as a community transfer body under section 77 where the designation states that the body may make a request for transfer of ownership. Classes of bodies may also be designated as eligible to make a request for transfer of ownership.
328. If a company is to meet the criteria to request transfer of ownership, section 80(2) requires that it must have at least 20 members, and provision in its articles of association to ensure that, on winding up, any remaining property remains within either the community sector or the charitable sector.
329. In order to be registered as a SCIO, a body is required to have appropriate provision in its constitution for surplus property to be distributed for charitable purposes. Similarly, there are restrictions on how community benefit societies can use or deal with their assets, and assets can only be transferred to other community or charitable organisations. Therefore, the only additional requirement for a SCIO or a community benefit company to be able to make an asset transfer request for ownership of land is that it has at least 20 members, which is provided for in subsection (1)(b) and (c) of section 80.