

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Common good property

369. Common good property is property owned by local authorities for the common good of the inhabitants in their areas which has been passed down, through local government reorganisation, from the former burghs. Those burghs would have received it as a gift or purchased it. It includes land and buildings, moveable items such as furniture and art, and cash funds. It is sometimes difficult to know whether property forms part of the common good, and there may be restrictions on how certain items of common good property are allowed to be used and whether the local authority can dispose of them. In some cases this has to be decided by the courts.
370. This Part of the Act aims to increase transparency about common good assets and community involvement in decisions taken about their identification, use and disposal. It does not define or redefine common good or remove or alter any restrictions on the use or disposal of common good property.

Common good registers

371. [Section 102](#) requires each local authority to establish and maintain a register of its common good property. Before establishing this register it must publish a list of what it proposes to include, and notify any community councils and other community bodies in its area. In this Part, “community bodies” are defined as any group set up to promote or improve the interests of any communities which exist in the area. Community councils and community bodies must be invited to comment on the proposed register, and the local authority must take account of any comments made by those bodies or anyone else. This gives everyone the opportunity to say whether they think the local authority has missed any common good property from the list, or included anything which is not part of the common good.
372. Subsection (8) requires the local authority to make its completed common good register available for the public to inspect in person, and to make it available on a website or by other electronic means.
373. [Section 103](#) requires local authorities to have regard to any guidance issued by the Scottish Ministers about common good registers. Before issuing any guidance, the Scottish Ministers must consult local authorities, community councils, and appropriate community bodies.

Disposal and use of common good property

374. [Section 104](#) provides that communities must be consulted before a local authority disposes of any common good property or changes its use. As with establishing the common good register, the local authority must publish its proposals, notify community

*These notes relate to the Community Empowerment (Scotland)
Act 2015 (asp 6) which received Royal Assent on 24 July 2015*

councils and community bodies, and take account of any comments made by them or anyone else.

375. In this case the local authority only needs to consult community bodies which it knows have an interest in that particular property. They must also, where the local authority is Aberdeen, Dundee, Edinburgh or Glasgow City Council, consult any community council in the local authority area. Apart from Aberdeen, Dundee, Edinburgh and Glasgow City Councils, many local authorities have one or more common good funds that are used for the benefit of different former burgh areas, and they are required to administer these funds with regard to the interests of the inhabitants of the relevant area. It would not be appropriate to consult community councils from other parts of the local authority area. Therefore section 104(5)(b) provides that the local authority must notify and invite representations from community councils whose area covers or overlaps with the area to which the common good property related prior to the abolition of burgh councils in 1975.
376. [Section 105](#) requires local authorities to have regard to any guidance issued by the Scottish Ministers about disposal or change of use of common good property and about the management and use of common good property.