



Land Reform (Scotland) Act 2003

2003 asp 2

PART 3

THE CROFTING COMMUNITY RIGHT TO BUY

CHAPTER 1

GENERAL EXTENT OF CROFTING COMMUNITY RIGHT TO BUY

71 Crofting community bodies

- [^{F1}(A1) A crofting community body is, subject to subsection (4)—
- (a) a body falling within subsection (1), (1A) or (1B), or
 - (b) a body of such other description as may be prescribed which complies with prescribed requirements.]
- (1) A [^{F2}body falls within this subsection if it is] a company limited by guarantee, the [^{F3}articles of association] of which include the following—
- (a) a definition of the crofting community to which the company relates;
 - (b) provision enabling the company to exercise the right to buy land [^{F4}, the interest mentioned in section 69A(3)] and sporting interests under this Part of this Act;
 - (c) provision that the company must have not fewer than [^{F5}10] members;
 - [^{F6}(d) provision that at least three quarters of the members of the company are members of the crofting community,]
 - (e) provision whereby the members of the company who consist of members of the crofting community have control of the company;
 - (f) provision ensuring proper arrangements for the financial management of the company ^{F7}... ;
 - (g) provision that any surplus funds or assets of the company are to be applied for the benefit of the crofting community; and
 - (h) provision that on the winding up of the company and after satisfaction of its liabilities, its property (including any land [^{F8}, interest in land] and sporting interests acquired by it under this Part of this Act) passes—

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- (i) to such other crofting community body [F9, community body or Part 3A community body (as defined in section 97D)] as may be approved by Ministers; or
- (ii) if no other such body is so approved, to Ministers or to such charity as Ministers may direct.

[F10(1A) A body falls within this subsection if it is a Scottish charitable incorporated organisation (a “SCIO”) the constitution of which includes the following—

- (a) a definition of the crofting community to which the SCIO relates,
- (b) provision enabling the SCIO to exercise the right to buy land, the interest mentioned in section 69A(3) and sporting interests under this Part,
- (c) provision that the SCIO must have not fewer than 10 members,
- (d) provision that at least three quarters of the members of the SCIO are members of the crofting community,
- (e) provision under which the members of the SCIO who consist of members of the crofting community have control of the SCIO,
- (f) provision ensuring proper arrangements for the financial management of the SCIO,
- (g) provision that, on the request of any person for a copy of the minutes of a meeting of the SCIO, the SCIO must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
- (h) provision that, where a request of the type mentioned in paragraph (g) is made, the SCIO—
 - (i) may withhold information contained in the minutes, and
 - (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and
- (i) provision that any surplus funds or assets of the SCIO are to be applied for the benefit of the crofting community.

(1B) A body falls within this subsection if it is a community benefit society the registered rules of which include the following—

- (a) a definition of the crofting community to which the society relates,
- (b) provision enabling the society to exercise the right to buy land, the interest mentioned in section 69A(3) and sporting interests under this Part,
- (c) provision that the society must have not fewer than 10 members,
- (d) provision that at least three quarters of the members of the society are members of the crofting community,
- (e) provision under which the members of the society who consist of members of the crofting community have control of the society,
- (f) provision ensuring proper arrangements for the financial management of the society,
- (g) provision that, on the request of any person for a copy of the minutes of a meeting of the society, the society must, if the request is reasonable, give the person within 28 days of the request a copy of those minutes,
- (h) provision that, where a request of the type mentioned in paragraph (g) is made, the society—
 - (i) may withhold information contained in the minutes, and
 - (ii) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so, and

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- (i) provision that any surplus funds or assets of the society are to be applied for the benefit of the crofting community.]
- (2) Ministers may, if they think it in the public interest to do so, disapply the requirement specified in subsection (1)(c) [^{F11}, (1A)(c) or (1B)(c)] above in relation to any body they may specify.
- (3) In subsection (1) above, “company limited by guarantee” has [^{F12}the meaning given by section 3(3) of the Companies Act 2006].
- (4) A body is not a crofting community body unless Ministers have given it written confirmation that they are satisfied that the main purpose of the body is consistent with furthering the achievement of sustainable development.
- [^{F13}(4A) Ministers may by regulations from time to time amend subsections (1), (1A) and (1B).
- (4B) If provision is made under subsection (A1)(b), Ministers may by regulations make such amendment of section 72(1) in consequence of that provision as they consider necessary or expedient.]
- (5) A crofting community shall be defined for the purposes of subsection (1)(a) [^{F14}, (1A) (a) or (1B)(a)] above—
- (a) as those persons who—
- (i) are resident in the crofting township which is situated in or otherwise associated with the croft land which the crofting community body has a right to buy under this Part of this Act [^{F15}and who are entitled to vote in local government elections in the polling district or districts in which that township is situated] ; ^{F16} ...
- [^{F17}(ii) are tenants of crofts in the crofting township whose names are entered in the Crofting Register, or the Register of Crofts, as the tenants of such crofts;
- (iii) are owner-occupier crofters of owner-occupied crofts in the crofting township whose names are entered in the Crofting Register as the owner-occupier crofters of such crofts; or
- (iv) are such other persons, or are persons falling within a class of such other persons, as may be prescribed;]
- and who are entitled to vote in local government elections in the polling district or districts in which that township or, as the case may be, that other place is situated; or
- (b) if, in Ministers' opinion, it is inappropriate so to define the crofting community, in such other way as Ministers approve for the purposes of this paragraph.
- (6) In subsection [^{F18}(5)(a)] above [^{F19}—]
- “crofting township” means—
- (a) any two or more crofts which share the right to use a common grazing together with that common grazing and any houses pertaining to or contiguous to those crofts or that common grazing; or
- (b) any combination of two or more crofting townships within that meaning.
- [^{F20}“owner-occupied croft” has the meaning given by section 19B(5) of the Crofters (Scotland) Act 1993,
- “owner-occupier crofter” is to be construed in accordance with section 19B of that Act.]

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- (7) The [F²¹articles] of a company which is a crofting community body may, notwithstanding the generality of paragraph (h) of subsection (1) above, provide that its property may, in the circumstances mentioned in that paragraph, pass to another person only if that person is a charity.
- (8) In this section [F²²—]
 “charity” means a body [F²³entered in the Scottish Charity Register].
 [F²⁴“community benefit society” means a registered society (within the meaning of section 1 of the Co-operative and Community Benefit Societies Act 2014) registered as a community benefit society under section 2 of that Act,
 “registered rules” has the meaning given by section 149 of that Act (as that meaning applies in relation to community benefit societies),
 “Scottish charitable incorporated organisation” has the meaning given by section 49 of the Charities and Trustee Investment (Scotland) Act 2005.]

Textual Amendments

- F1** S. 71(A1) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(2\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)
- F2** Words in s. 71(1) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(3\)\(a\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)
- F3** Words in s. 71(1) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\), art. 2\(1\), Sch. 1 para. 218\(3\)\(a\) \(with art. 10\)](#)
- F4** Words in s. 71(1)(b) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(3\)\(b\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)
- F5** Word in s. 71(1)(c) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(3\)\(c\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)
- F6** S. 71(1)(d) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(3\)\(d\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)
- F7** Words in s. 71(1)(f) repealed (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(3\)\(e\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)
- F8** Words in s. 71(1)(h) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(3\)\(f\)\(i\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)
- F9** Words in s. 71(1)(h)(i) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(3\)\(f\)\(ii\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)
- F10** S. 71(1A)(1B) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(4\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)
- F11** Words in s. 71(2) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\), ss. 62\(5\), 142\(1\); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 \(with art. 3\)](#)

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- F12** Words in s. 71(3) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 218(3)(b)** (with art. 10)
- F13** S. 71(4A)(4B) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(6)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F14** Words in s. 71(5) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(7)(a)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F15** Words in s. 71(5)(a)(i) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(7)(b)(i)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F16** Word in s. 71(5)(a) repealed (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(7)(b)(ii)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F17** S. 71(5)(a)(ii)-(iv) substituted for words (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(7)(b)(iii)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F18** Word in s. 71(6) substituted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(8)(a)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F19** S. 71(6) hyphen inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(8)(b)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F20** Words in s. 71(6) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(8)(c)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F21** Words in s. 71(7) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 218(3)(c)** (with art. 10)
- F22** S. 71(8) hyphen inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(9)(a)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F23** Words in s. 71(8) substituted (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), ss. 104, 107(2), **Sch. 4 para. 13(b)**; S.S.I. 2006/189, **art. 2**, Sch.
- F24** Words in s. 71(8) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 62(9)(b)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)

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