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## **LAND REFORM – FACTSHEET FOR COMMUNITY COUNCILS**

This factsheet provides Scotland's Community Councils with advice about how local communities can have more of a say in how land is owned, used and managed. It also outlines the ways in which communities can use legislation to seek to become the owners of land, even where the owner of the land does not wish to sell the land to the community. The factsheet also provides an update on other land reform activities that will be of interest to community councils.

This activity is part of the Scottish Government's delivery of its land reform programme. It should be emphasised that land reform measures apply to both urban and rural Scotland.

### **Scottish Land Rights and Responsibilities Statement**

The Scottish Government is required by the Land Reform (Scotland) Act 2016 to publish a statement on land rights and responsibilities and review this every 5 years. The first such statement was published on 28 September 2017.

The statement sets out our vision for land to ensure that the full public benefits from land in Scotland are realised, supported by six principles that should be taken into account whenever significant decisions are being taken about land. The statement also includes advisory notes and case studies. The statement can be found at the following web address: <http://www.gov.scot/Publications/2017/09/7869>

### **Guidance on Engaging Communities in Decisions Relating to Land.**

The Guidance on Engaging Communities in Decisions Relating to Land is a requirement of the Land Reform (Scotland) Act 2016, and sets out expectations about what is required of those who make decisions about land. It provides guidance on how people making significant decisions about land should engage communities that will be affected by such decisions. We expect anyone making a significant decisions about land to follow the guidance.

The guidance applies to all urban and rural land in Scotland, including buildings and structures on the land, and watercourses, and applies to both publicly and privately controlled land.

The guidance is on the Scottish Government website at the following address: <http://www.gov.scot/Publications/2018/04/2478>

### **Community Ownership of Land**

Where communities wish to acquire land the Scottish Government advises that, in the first instance, the community approaches the owner of the land to see if they will

agree to a transfer of the land, either for an agreed price or, as has sometimes happened, to transfer the land as a gift.

However land owners may not always agree to the transfer of their land to the community, and if that is the case there are a number of pieces of legislation that provide opportunities for local communities to seek to acquire the land.

Legislative opportunities for land ownership include:

#### Part 2 of the Land Reform (Scotland) Act 2003

- This is a pre-emptive right to buy created under Part 2 of the Land Reform (Scotland) Act 2003. Under this power, the community registers an interest in buying the land, but the process of acquiring the land can only take effect if and when the landowner puts the land on the market. Initially this applied only to rural areas, but following changes made by the Community Empowerment (Scotland) Act 2015, it now applies to urban areas too.

#### Part 3A of the Land Reform (Scotland) Act 2003

- The Right to Buy Abandoned, Neglected and Detrimental Land was created under the Community Empowerment (Scotland) Act 2015, by amendment to the 2003 Land Reform Act. It came into force on 27 June 2018. Unlike a Part 2 application, this does not require pre-emptive registration and, subject to the legislative conditions, can be exercised by community bodies at any time, even where the owner of the land does not wish to sell their land. It is therefore a form of compulsory purchase that can be exercised by the community, subject to the approval of Scottish Ministers.

#### Asset Transfer

- Part 5 of the Community Empowerment (Scotland) Act 2015 introduced a right for community bodies to make requests to all local authorities, Scottish Ministers and a range of public bodies for any land or buildings they feel they could make better use of than the existing use. They can request ownership, lease or other rights as they wish.
- Public authorities must transparently assess requests against a specified list of criteria, laid out in the Act, and agree the request unless there are reasonable grounds for refusal. Where such a request is refused, the community group have a right to appeal or to ask for a review of that decision. More information on Asset Transfer can be found at the following web address: <https://beta.gov.scot/policies/community-empowerment/asset-transfer/>

#### Right to Buy Land to Further Sustainable Development

- This power has not yet been brought into force, and we are currently carrying out a full public consultation on our proposals for the regulations to bring it into force. The consultation can be found at the following web address, and it

closes on 19 September: <https://consult.gov.scot/environment-forestry/right-to-buy-land-further-sustainable-development>

- Responses to the consultation will help shape the regulations that will be laid to bring the new power into force.
- This power was created under Part 5 of the Land Reform (Scotland) Act 2016 and will allow local communities to seek to buy land for the purposes of sustainable development, even where the land owner does not wish to sell the land. It is therefore, like the Right to Buy Abandoned, Neglected and Detrimental Land, a form of compulsory purchase.
- The consultation covers important technical issues such as what sort of land is to be eligible for the new right to buy, the ballot procedures and the means by which a community body should write to a land owner to seek the transfer of the land. It also contains an overall description of how we expect the new right to buy power to be used. We hope the consultation will be of interest to community councils, their members and their communities, and the new power will be brought into force once we have considered all the consultation responses.

## **Scottish Land Fund**

Community purchase of land is supported by the Scottish Land Fund, which has been open to urban groups since April 2016. The fund has remained at £10m for this year, as well as a commitment to continue at this level until 2020.

If you or one of your local community groups would like to know more about and aspect of the community right to buy land, or about the Scottish Land Fund, there is further information at the following web address: <https://beta.gov.scot/policies/land-reform/community-right-to-buy/>

You can contact the Scottish Government's community land team at the following e-mail address: [CRTB@gov.scot](mailto:CRTB@gov.scot)

You can also write to them at the following address:

Community Land Team  
Q Spur  
Saughton House  
Broomhouse Drive  
Edinburgh  
EH11 3XD

## **Register of Persons Holding a Controlled Interest in Land**

On Wednesday 20 June 2018 we laid draft regulations for consultation to establish a new Register of Persons Holding a Controlled Interest in Land. The publication of these proposals marks a significant step towards delivering greater transparency of land ownership in Scotland. Together with information already publicly available,

they will ensure that the identity of people making decisions about land can no longer be obscured. Access to the new Register will be free.

The consultation on our proposals closed on 8 November 2018, and the independent analysis of the responses was published on 3 April 2019. We expect to lay the draft regulations for a second time in the Scottish Parliament by the end of 2019, and that the new register will be operational in 2021.

### **Scottish Land Commission**

Lastly, I would like to take the opportunity to remind you that the Scottish Land Commission came into being on 1 April 2017. The Commission's remit is to drive forward land reform in Scotland. It reviews the impact and effectiveness of laws and policies relating to land, recommends changes where necessary, gathers evidence and carries out research, and prepares reports and provides information and guidance on land related issues.

Currently it is developing a series of codes of practice for land owners, land managers and communities. The first code of practice supports community engagement and complements our Guidance on Engagement Communities in Decisions Relating to Land. You can find out much more about the work of the Commission on their website at the following address, and you will see the Commission holds regular events to meet with members of the public about land related issues: <https://landcommission.gov.scot/>

You can contact the Scottish Land Commission directly, and contact details are on their website.

If you would like to know more about any aspect of our land reform programme, please contact Chris Bierley at the Scottish Government, at the following e-mail address: [Christopher.Bierley@gov.scot](mailto:Christopher.Bierley@gov.scot)

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