

2009 No. 160

LAND REFORM

The Crofting Community Body (Prescribed Form of Application and Notice) (Scotland) Regulations 2009

<i>Made</i> - - - -	<i>23rd April 2009</i>
<i>Laid before the Scottish Parliament</i>	<i>24th April 2009</i>
<i>Coming into force</i> - -	<i>15th June 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 73(5) and 82(1) and (2) of the Land Reform (Scotland) Act 2003(a), and all other powers enabling them to do so:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Crofting Community Body (Prescribed Form of Application and Notice) (Scotland) Regulations 2009, and come into force on 15th June 2009.

(2) In these Regulations—

“the Act” means the Land Reform (Scotland) Act 2003;

“crofting community body” has the same meaning as in section 71 of the Act;

“eligible additional land” has the same meaning as in section 70(4) of the Act;

“eligible croft land” has the same meaning as in section 68(2) of the Act;

“eligible sporting interests” has the same meaning as in section 70(4) of the Act;

“interest of the tenant” has the same meaning as in section 69A(3)(b) of the Act; and

“tenanted land” has the same meaning as in section 69A(1) of the Act.

Application by a crofting community body for consent to buy eligible croft land, eligible additional land, eligible sporting interests or the interest of a tenant in tenanted land

2. An application by a crofting community body under section 73(2) of the Act—

(a) for consent to buy eligible croft land, eligible additional land or eligible sporting interests;
or

(b) (as read with section 69A(2) of the Act), for consent to buy the interest of the tenant in tenanted land,

shall be submitted to Ministers in, or as near as may be in, the form of application specified in Schedule 1.

(a) 2003 asp 2 there are no amendments relevant to those provisions. Section 98(1) contains definitions of “Ministers” and “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

(b) Section 69A of the Land Reform (Scotland) Act 2003 was inserted by the Crofting Reform etc. Act 2007 (asp 7), section 31(2).

Notification of Ministers' decision on application

3. Ministers must notify their decision under section 82 of the Act on an application to buy eligible croft land, eligible additional land, eligible sporting interests or the interest of the tenant in tenanted land in, or as near as may be in, the form of notice specified in Schedule 2.

Revocation

4. The Crofting Community Body Form of Application for Consent to Buy Croft Land etc. and Notice of Ministers' Decision (Scotland) Regulations 2004(a) are hereby revoked.

R CUNNINGHAM

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
23rd April 2009

(a) S.S.I. 2004/224.

Official use only	V2
Received date	
Maps included	

LAND REFORM (SCOTLAND) ACT 2003

APPLICATION FORM FOR CONSENT TO BUY ELIGIBLE CROFT LAND, etc.* OR TO BUY THE INTEREST OF THE TENANT IN TENANTED LAND* (*please delete as appropriate)

Please use black ink and capital letters

1 Name of Crofting Community Body (CCB)

Contact Title:

Contact Forename:

Contact Surname:

Contact Address:

Postcode:

Telephone Number:

Fax Number:

Email Address (if available):

Office held in crofting community body:

2. Applicant Company details

A Crofting Community Body must be a Company Limited by Guarantee, registered in Scotland. A copy of the **Memorandum** and **Articles of Association** of the Crofting Community Body should be enclosed, along with a copy of your **Certificate of Incorporation**.

Note: If you are only applying for consent to buy the interest of the tenant in tenanted land, you do not need to include your Memorandum and Articles of Association, or your Certificate of Incorporation.

Company registration number:

Name of registered office:

Address of registered office:

Postcode:

3. Location of relevant land and identification of the Crofting Community

(a) Please show the crofting community in relation to the land/tenanted land* for which consent to purchase is being sought and provide a suitable map or plan which identifies those individual households of members of the crofting community resident in the township of the crofting community. The map or plan should be to an appropriate scale and derived from an Ordnance Survey map. Please ensure that maps or plans are referenced accordingly and indexed in the box below.

No. of maps or plans enclosed

(b) Please explain the connection between the crofting community as defined above and the land which is the subject of this application and for which consent to purchase is sought.

4. Details of eligible croft land, eligible additional land or eligible sporting interests/tenanted land* for which consent to purchase is sought

Note: If you are completing this application form in respect of eligible croft land, etc, please complete paragraphs (a) to (k) and (m) of question 4. If you are completing this application form in order to buy the interest of the tenant in tenanted land only, please complete paragraphs (a) to (d), (l) and (m) of question 4.

(a) Please provide a map or maps showing the location and boundaries of the land or eligible sporting interests/tenanted land* in respect of which the right to buy is to be exercised.

(b) Please detail the number of maps/drawings enclosed and give a description of each.

(c) Please provide the following location details of the land—

County in which the land is located:

Postcode details:

Four figure OS grid reference numbers
(e.g. NT1234) covering land to be
registered:

(d) Please provide a written description of eligible croft land, eligible additional land or eligible sporting interests/tenanted land* (complete on a separate sheet if necessary, which should be referenced accordingly). This should include proposed boundaries and all rights and interests in the land which is the subject of this application, and the lines of all sewers, pipes, lines, watercourses or other conduits and fences, dykes, ditches or other boundaries in or on the land.

(e) Does the person who owns the eligible croft land/eligible additional land/tenant of the tenanted land* own the mineral rights associated with this land? **YES/NO**

(f) Do you wish to acquire these rights as part of this application? **YES/NO**

(g) Does the person who owns the eligible croft land/eligible additional land/tenant of the tenanted land* own the salmon fishings on or contiguous with this land? **YES/NO**

(h) Do you wish to acquire these salmon fishings as part of this application? **YES/NO**

(i) Is this an application to acquire–

- (i) salmon fishings;
- (ii) mineral rights;
- (iii) eligible sporting interests,

on or contiguous with eligible croft land/eligible additional land which is either the subject of another application or which has been acquired previously through the exercise of a crofting community right to buy under the provisions of this Act?

ANSWER TO	(i)	YES/NO
	(ii)	YES/NO
	(iii)	YES/NO

(j) If the answer to any part of question (i) is **YES**, please provide information to enable us to identify that other application or previous acquisition and to confirm that those salmon fishings, mineral rights or eligible sporting interests are on or contiguous with the relevant eligible croft land/eligible additional land. You should provide a map or plan which should be referenced accordingly.

Note: Maps and plans should be to a suitable scale to clearly show all relevant features, exceptions and boundaries, and should be derived from an Ordnance Survey Map.

(k) If that relevant land was acquired previously through the exercise of a crofting community right to buy under the provisions of this Act please state the date on which that purchase was completed.

(DD/MM/YY) _____

(l) Has the tenants' interest in the tenanted land been acquired previously through the exercise of a crofting community right to buy under the provisions of this Act?

YES/NO

If **YES**, please state the date on which that purchase was completed.

(DD/MM/YY) _____

(m) Do you wish to offer the eligible sporting interests in the land to which this application relates for lease back to the current owner of the land in the event that this application is approved?

YES/NO

5. Eligible additional land

(a) Does the land described in question 4 include any eligible additional land? **YES/NO**

If **YES** give a detailed description of that land, and supply a map or plan to a suitable scale to clearly show all relevant features, exceptions and boundaries. The description, map or plan should demonstrate the extent to which the eligible additional land is contiguous to the eligible croft land. The map or plan should be clearly labelled, and referenced accordingly.

- Note:** (i) Maps and plans should be to a suitable scale to clearly show all relevant features, exceptions and boundaries and should be derived from an Ordnance Survey Map.
(ii) Do not answer this question if you are only applying to buy the interest of the tenant in tenanted land.

(b) Please confirm whether–

- (i) the owner of the eligible additional land requested that it be purchased; or
YES/NO/NOT APPLICABLE
- (ii) the owner of the eligible additional land has consented to its purchase?
YES/NO/NOT APPLICABLE

If the answer to (i) or (ii) is **YES**, please provide evidence of that request or consent, and reference that evidence accordingly.

6. Confirmation of land status

Please explain–

- (i) why you consider all of the land or eligible sporting interests constitutes eligible croft land, eligible additional land or eligible sporting interests or why you consider the land in question is tenanted land (see section 69A(1) of the Act); and
- (ii) why you believe that all of the land or these eligible sporting interests is owned by the landowner referred to in question 10 below, or why you believe that the tenant referred to in question 10 below has an interest in the land.

Relevant evidence to support any explanation should be attached with this application, and referenced accordingly. Please answer (i) and (ii) separately.

(i)

(ii)

7. Proposed use etc.

State the proposed use, development and management of the land/tenanted land* which is the subject of this application. Continue on a separate sheet if necessary, which should be referenced accordingly.

8. Boundaries and services on contiguous land

(a) Will the proposed use, development or management of the land relating to this application interfere with any sewers, pipes, lines, watercourses or other conduits and fences, dykes, ditches or other boundaries in or on the land?

YES/NO

If **YES**, give details:

Note: Do not answer this question if you are only applying to buy the interest of the tenant in tenanted land.

(i)										
(ii)										
(iii)										
<p>(b) Is the amount of land/tenanted land* being acquired sufficient to support any–</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 5%; text-align: center;">(i)</td> <td style="width: 70%;">salmon fishings;</td> <td style="width: 25%; text-align: right;">YES/NO/NOT APPLICABLE</td> </tr> <tr> <td style="text-align: center;">(ii)</td> <td>mineral rights; or</td> <td style="text-align: right;">YES/NO/NOT APPLICABLE</td> </tr> <tr> <td style="text-align: center;">(iii)</td> <td>eligible sporting interests,</td> <td style="text-align: right;">YES/NO/NOT APPLICABLE</td> </tr> </table> <p>so as to support the development of the crofting community?</p> <p>If YES, please provide details of how that support is to be achieved.</p> <p>If NO, please indicate why your application should be approved.</p> <p>Please answer (i), (ii) and (iii), as applicable, separately.</p>		(i)	salmon fishings;	YES/NO/NOT APPLICABLE	(ii)	mineral rights; or	YES/NO/NOT APPLICABLE	(iii)	eligible sporting interests,	YES/NO/NOT APPLICABLE
(i)	salmon fishings;	YES/NO/NOT APPLICABLE								
(ii)	mineral rights; or	YES/NO/NOT APPLICABLE								
(iii)	eligible sporting interests,	YES/NO/NOT APPLICABLE								

(i)
(ii)
(iii)

10. Details about the landowner/tenant*

(a) If the landowner is unknown, enter “**Unknown**” in “Name” field below. If you are unsure about the current address of the landowner/tenant*, you should give the best and most recent information that is available to the crofting community body.

Title:

Name:

Address:

Postcode:

Landowner's
agent/representative:

(b) Please provide details of the checks made, and by whom, to establish the ownership details of the land, or who is the tenant of the land. If you have any doubts about the accuracy of the details of the landowner, you should state why you have doubts about this information.

11. Ballot

(a) Please provide a complete list of all those members who were eligible to vote in the ballot (continue on a separate sheet if necessary, which should be referenced accordingly). Please also indicate which of these members are crofters and identify their croft.

(b) Please identify the names and current addresses of those crofter members of the crofting community who reside outwith the township(s) associated with the eligible croft land to which this application relates and give the distance from the township (which is to be no more than 16km) to where they reside.

(c) Please confirm that the membership of the crofting community (as given by the crofting community body in this application) is that which was eligible to take part in the ballot notified to the Scottish Ministers under section 75(4) of the Act.

I confirm/do not confirm the details above*

12. Ballot result

Is notification to the Scottish Ministers of the results of the ballot held under section 75 of the Act enclosed with the application? **YES/NO**

If **NO**, please indicate when it was sent to Scottish Ministers

Date sent (DD/MM/YY) _____

- Note:** (i) an application under section 73 of the Act must be made within the period of 6 months starting on and including the date of the ballot; and
- (ii) an application by a crofting community body in terms of section 69A of the Act for consent to acquire the interest of a tenant in tenanted land, and which is submitted under section 73 of the Act, shall only be submitted during the relevant period (see section 69A(5) of the Act) and when the conditions in section 69A(4) are met.

13. Public interest

Please provide an explanation as to why you consider that the approval of this application would be in the public interest.

14. Declaration

We apply to purchase the eligible croft land/eligible additional land/interest of the tenant in tenanted land, eligible sporting interests, salmon fishings or mineral rights specified in this application. We certify that the information supplied is correct to the best of our knowledge and belief.

Title of Chairperson:

Name of Chairperson:

Contact address:

Postcode:

Signature: _____

Title of Secretary

Name of Secretary
(or other rep):

Contact address:

Postcode:

Signature: _____

Date of Application:

Completed applications should be returned to:-

**Community Assets Branch,
Area 1-D,
Rural Directorate,
Pentland House,
47 Robb's Loan,
Edinburgh
EH14 1TY.**

*Please delete as appropriate

SCHEDULE 2

Regulation 3

NOTICE UNDER SECTION 82 OF THE LAND REFORM (SCOTLAND) ACT 2003 OF SCOTTISH MINISTERS' DECISION ON AN APPLICATION TO PURCHASE BY A CROFTING COMMUNITY BODY

1. Name of crofting community body.
2. Description of eligible croft land, eligible additional land, eligible sporting interests or the interests of the tenant in tenanted land which are the subject of the application.
3. Decision on application and date from which it is effective (**See Notes 1 to 5**).
4. Any conditions attaching to consent if application is approved.
5. Reasons for decision.

NOTES

1. If the transfer of the land/tenanted land is not completed within 6 months, or within 2 months of the price being fixed, the application is treated as being withdrawn.
2. A decision of the Scottish Ministers to consent to an application relating to land/tenanted land may be appealed by summary application to the Sheriff by the following persons—
 - (a) any person who is a member of the crofting community defined in relation to the applicant crofting community in pursuance of section 71 of the Act;
 - (b) the owner of or, as the case may be, person entitled to the subjects of the application;
 - (c) any other person who has any interest in the land or eligible sporting interests giving rise to a right which is legally enforceable by that person;
 - (d) the owners of all land contiguous to land which consists of the subjects of the application;
 - (e) the Crofters Commission; and
 - (f) any other person whom the Scottish Ministers considered to have an interest in the application under section 73(8)(a) of the Act.
3. A decision of the Scottish Ministers to refuse an application may be appealed by summary application to the Sheriff by the applicant crofting community body.
4. A decision of the Scottish Ministers to consent to an application has the following consequences—
 - (a) the Scottish Ministers must within 7 days appoint a valuer of the croft land to be acquired;
 - (b) the owner of the croft land/tenanted land is required to make available to the crofting community body the title deeds of the land to be acquired/lease relating to the tenanted land within 6 weeks of the consent by the Scottish Ministers;
 - (c) in the event that the application relating to land proposed that there could be a leaseback of the eligible sporting interests to the owner, the current owner has notified the Scottish Ministers that he wishes a lease back and the Scottish Ministers have not been provided with a copy of an agreement on the terms and conditions of the lease then, within 7 days, the Scottish Ministers will refer the question of what terms and conditions are appropriate to the Land Court so that the Court may determine these terms and conditions;
 - (d) any rights of pre-emption, redemption or reversion or deriving from any option to purchase are suspended as from the date of the Scottish Ministers' approval and are revived either when the transfer of the land is completed, or if such a transfer is not completed, because the crofting community body does not proceed with the purchase.
5. A copy of the Scottish Ministers' decision—
 - (a) must be lodged in the Register of Crofting Community Rights to Buy to be held by the Crofters Commission and will be available for public inspection;
 - (b) must be sent to—
 - (i) the owner of the land, or as the case may be, the person entitled to the eligible sporting interests, or the tenant to which the application relates;
 - (ii) every other person whom Ministers invited to give views on the application;
 - (iii) in the case of a decision to consent to the application, to the Keeper of the Registers of Scotland.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Crofting Community Body Form of Application for Consent to Buy Croft Land etc. and Notice of Ministers' Decision (Scotland) Regulations 2004 ("the 2004 Regulations"), and prescribe the form of an application by a crofting community body under section 73(2) of the Land Reform (Scotland) Act 2003 ("the 2003 Act"), and the form of the notice issued by Ministers under section 82 of the Act.

Regulation 2 provides that the application to be completed by a crofting community body to buy land, eligible sporting interests or the interest of the tenant in tenanted land shall be in the form specified in Schedule 1 to these Regulations.

Regulation 3 provides that the notice which must be used by the Scottish Ministers when they notify their decision on an application to buy land, eligible sporting interests or the interest of the tenant in tenanted land shall be in the form prescribed in Schedule 2 to these Regulations.

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