
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the right of crofting communities to buy the land they occupy under Part 3 of the Land Reform (Scotland) Act 2003 (“the 2003 Act”). The Regulations implement the changes to the procedures brought in by the Community Empowerment (Scotland) Act 2015.

Part 2 of these Regulations concerns the procedure to be followed where a crofting community body wishes to apply to Ministers for a right to buy under section 73(2) of the 2003 Act.

Regulation 2 provides that the application must be in the form specified in schedule 1 and include or be accompanied by information where specified in that schedule.

Regulation 3 provides specification for maps, plans or other drawings submitted with the application specified in schedule 1.

Regulation 4 sets out the manner in which an application for a right to buy croft land must be publicly notified by the Scottish Ministers as required by section 73.

Regulation 5 specifies the means by which the Scottish Ministers’ decision must be notified in the form specified in schedule 2.

Part 3 of these Regulations concerns the ballot that must be held by the crofting community body in the six months preceding the submission of an application, as required by section 75 of the Act.

Regulation 6 provides that the ballot must be conducted in a fair and reasonable manner and as a secret postal ballot. It also requires a crofting community body to ascertain all eligible voters in the community and send them a ballot paper containing the question on which the vote is to be taken, notice of the ballot deadline, a stamped addressed envelope and certain other information about the crofting community body and its proposal.

Regulation 7 specifies that a person eligible to vote in the ballot may request to be permitted a proxy vote and sets out the requirements for making such a request. The crofting community body must permit a proxy vote to a person who makes a valid request.

Regulation 8 requires the crofting community body to appoint an observer to oversee the counting of the completed ballot papers and the recording of the result. The observer must be an individual who is independent of the crofting community body and must sign a declaration that the person observed the counting and recording of the votes. The declaration is contained in schedule 4.

Regulation 9 specifies the procedure for publication of the ballot result.

Regulation 10 provides that the Scottish Ministers must be notified of the ballot result as required by section 75(4) of the 2003 Act in the form specified in schedule 4.

Regulation 11 requires that the crofting community body retains evidence –

- that, in the course of running the ballot, it complied with regulation 6,
- of all requests for a proxy vote and all proxy votes made under regulation 7, and
- of all completed and returned ballot papers,

for two years after the ballot deadline.

Part 4 of these Regulations concerns the process for application for reimbursement of the costs of running the ballot and the circumstances in which reimbursement will be made.

Status: This is the original version (as it was originally made).

Regulation 12 provides that a crofting community body may apply for reimbursement of the expense of conducting a ballot and provides for the timescale for doing so depending on the circumstances.

Regulation 13 specifies the information that must be included in the crofting community body's application for reimbursement of the expenses of conducting a ballot.

Regulation 14 provides that the Scottish Ministers may, within the period of 30 days after an application under regulation 12 is received, request further information from the crofting community body. The crofting community body then has 7 days in which to respond with the information requested or with an explanation as to why the additional information cannot be provided.

Regulation 15 provides that in the period of 60 days beginning on the date the application under regulation 12 is received, Ministers must calculate the amount, if any, to be reimbursed to the crofting community body. Only expenses that were incurred in the conduct of the ballot which are directly attributable to the activities specified in regulation 6 may be reimbursed and only provided they were not incurred retrospectively.

Regulation 16 provides that the crofting community body may appeal a decision on reimbursement to the Lands Tribunal and sets out the timescales for doing so and the steps the Lands Tribunal may take.

Part 5 of these Regulations concerns grant payments towards compensation due by the crofting community body. The circumstances in which compensation may be paid and the amounts of compensation due are set out in the Crofting Community Right to Buy (Compensation) (Scotland) Order 2004 ([S.S.I. 2004/226](#)).

Regulation 17 makes provision in connection with an application for a grant under section 90 of the 2003 Act.

Part 6 of these Regulations concerns revocations, savings and transitional provisions.

Regulation 18 revokes the Crofting Community Body (Prescribed Form of Application and Notice) (Scotland) Regulations 2009, the Crofting Community Right to Buy (Grant Towards Compensation Liability) (Scotland) Regulations 2004 and the Crofting Community Right to Buy (Ballot) (Scotland) Regulations 2004.

Regulation 19 provides that where an application is received by the Scottish Ministers before 1 December 2020 and a decision has not been made on the application by that date, the regulations referred to in regulation 18 continue to apply.

Regulation 20 provides that where a crofting community body has carried out a ballot of the community in terms of the Crofting Community Right to Buy (Ballot) (Scotland) Regulations 2004 in the six months immediately preceding 1 December 2020 and a connected application is made under section 73(2) on or after that date, the ballot carried out under those regulations will be treated as one carried out under regulations 6 to 10.