

## Scottish Statutory Instrument 2004 No. 224

### **The Crofting Community Body Form of Application for Consent to Buy Croft Land etc. and Notice of Minister's Decision (Scotland) Regulations 2004**

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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 224**

**LAND REFORM**

The Crofting Community Body Form of Application for Consent to Buy Croft Land etc. and Notice of Minister's Decision (Scotland) Regulations 2004

*Made*

*18th May 2004*

*Laid before the Scottish  
Parliament*

*21st May 2004*

*Coming into force*

*15th June 2004*

The Scottish Ministers in exercise of the powers conferred by section 73(5) and section 82(1) of the Land Reform (Scotland) Act 2003<sup>[1]</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and interpretation**

1. - (1) These Regulations may be cited as the Crofting Community Body Form of Application for Consent to Buy Croft Land etc. and Notice of Ministers' Decision (Scotland) Regulations 2004 and shall come into force on 15th June 2004.

(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.

**Application by crofting community body for consent to buy croft land**

2. An application under section 73(2) of the Act by a crofting community body for consent to buy eligible croft land or sporting interests shall be submitted to Ministers in, or as near as may be in, the form in Schedule 1 to these Regulations<sup>[2]</sup>.

**Notification of Ministers' decision on application**

3. Ministers shall notify their decision under section 82 of the Act on an application by a crofting community body to buy eligible croft land or sporting interests in, or as near as may be in, the form of Schedule 2 to these Regulations.

*ALLAN WILSON*

Authorised to sign by the Scottish Ministers

St Andrew's House, Edinburgh  
18th May 2004

SCHEDULE 1

Regulation 2

APPLICATION FORM FOR CONSENT TO BUY ELIGIBLE CROFT LAND  
OR SPORTING INTERESTS

Land Reform (Scotland) Act 2003

*Please use black ink and capital letters*

**1. Name of Community Body (CB)**

Contact Title:

Contact Forename:

Contact Surname:

Contact Address:

Telephone Number:

Fax Number:

Email Address (if available):

Office held with 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 the **Articles of Association** of the Crofting Community Body should be enclosed. (**See Note 1**).

Company Registration Number:

Address of Registered Office:

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

(a) Please show the crofting community in relation to the land for which consent to purchase is 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. This should be to an appropriate scale and derived from an Ordnance Survey map.

(b) Please provide a complete list of all those who were eligible to vote in the ballot.

(c) Please indicate which of these members are crofters and identify their croft (complete on a separate sheet if necessary).

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

(e) 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 Scottish Ministers under section 75(4) of the Act.

(f) Please explain the connection between the crofting community as identified above and the land for which consent to purchase is sought.

**4. Details of eligible croft land or sporting interests for which consent to purchase is sought (see Note 2)**

(a) Please provide a map or maps showing the location and boundaries of the land or sporting interests 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;

OS Grid Reference Number;

(d) Please provide a written description of eligible croft land, eligible additional land or sporting interests (complete on a separate sheet if necessary).

(e) Does the person who owns the eligible croft 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 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 mineral rights or sporting interests on or salmon fishings on or contiguous to eligible croft 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? **YES/NO (See Note 3).**

(j) If the answer is YES please provide sufficient information to enable us to identify that other application or previous acquisition and to confirm that these mineral rights or sporting interests are on or those salmon fishings are on or contiguous to the relevant croft land **(See Note 4).**

(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 indicate the date on which that purchase was completed.

(l) Please explain why you consider all of the land or sporting interests constitutes eligible croft land, eligible additional land or eligible sporting interests and why you believe that all of this land or these eligible sporting interests is owned by the landowner referred to in paragraph 6 below. (Relevant evidence to support this explanation should be attached with this application).

*5. Eligible additional land*

Does the land described in Answer 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 show all relevant features, exceptions and boundaries clearly. This should demonstrate the extent to which the additional land is contiguous to the eligible croft land. (See Note 4).

*6. Details about the landowner (see Note 5)*

Title:

Name:

Address:

Postcode:

Landowner's Agent/Representative:

*7. Sporting interests*

Do you wish to offer the 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**

*8. Proposed use etc.*

State the proposed use, development and management of the subjects of the application (use separate sheet if necessary).

*9. Boundaries and services on contiguous land*

(a) Will the proposed use, development or management interfere with any sewers, pipelines, watercourses, fences, dykes, ditches or other boundaries insofar as these connect with similar facilities on other contiguous land or also serve other contiguous land? **YES/NO**

If YES, give details.

(b) Is it likely that the present owner of the eligible croft land or any third party will require access over the land relating to this application to reach other property or the right to access services (water, electricity and drains) **YES/NO**

If YES, give details.

(c) Please identify any other land owned by the owner of the eligible croft land and any business on such land that may be liable to be affected if this application is granted. **YES/NO**

If YES, give details.

**10. Sustainable use or development**

State the extent to which the proposed use, development or management of the property to which this application relates would consist of or support the sustainable use or development of that property and any land or sporting interests previously acquired by the crofting community body.

**11. Ballot result**

Is notification to 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 (see Note 6)

**12. Public interest**

Provide an explanation as to why you consider that the approval of your application would be in the public interest.

**13.** We apply to purchase the croft land specified at Question 4 above. We certify that the information supplied in this application is correct to the best of our knowledge and belief.

Title of Chairperson:

Name of Chairperson:

Signature:

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Title of Secretary

Name of Secretary (or other rep):

Signature:

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Date of Application:

**NOTES**

Note 1 It is not necessary to send a copy of the Memorandum and Articles of Association if a copy of the letter sent by Scottish Ministers under section 71(4) of the Act is produced.

Note 2 The description should include proposed boundaries and all rights and interests (which can be ascertained after reasonably diligent enquiry) in the subject of the application and the lines of all sewers, pipelines, fences, dykes etc (see section 73(5)(b)).

Note 3 An application to acquire mineral rights or sporting interests on or salmon fishings on or contiguous to eligible croft land which has been acquired

previously through the exercise of a crofting community right to buy under the provisions of this Act must be made within 5 years of completion of the purchase of the land in the case of mineral rights and sporting interests and within 1 year of purchase of the land in the case of salmon fishings.

Note 4 Maps and drawings must be provided, should be to a suitable scale to show all relevant features, exceptions and boundaries clearly and should be derived from an Ordnance Survey Map.

Note 5 In the event that the current address of the landowner is not known the application should give the best and most recent information available to the crofting community body. This should be accompanied by an explanation of any reasons for doubting the accuracy of the address information supplied.

Note 6 An application must be made within a 6 month period starting on and including the date of the ballot. An application made outwith that period will be invalid.

## 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 land or sporting interests 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 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 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 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 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) Scottish Ministers will within 7 days appoint a valuer of the croft land to be acquired;

(b) the owner of the croft land is required to make available to the crofting community body the title deeds of the land to be acquired within 6 weeks of the consent by Scottish Ministers;

(c) in the event that the application proposed that there could be a leaseback of the sporting interests to the owner, the current owner has notified Ministers that he wishes a lease back and Ministers have not been provided with a copy of an agreement on the terms and conditions of the lease then, within 7 days, 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 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) will 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) will be sent to-

(i) the owner of the land, or as the case may be, the person entitled to the sporting interest 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.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations specify the application form to be used by a crofting community body when it is seeking the consent of the Scottish Ministers to purchase eligible croft land or sporting interests (regulation 2 and Schedule 1). The Regulations also specify in Schedule 2 the form to be used by Scottish Ministers when giving notification of their decision on such an application by a crofting community body. This form gives details of the rights of appeal available in relation to the decision of Scottish Ministers, and also sets out the consequences of their decision.

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*Notes:*

[1] 2003 asp 2. Section 98(1) contains definitions of "Ministers" and "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made.[back](#)

[2] In terms of section 73(6)(a) of the Act a copy of the application must be sent to the owner at the same time that the application is submitted to Scottish Ministers.[back](#)

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