

PART 3 OF THE LAND REFORM (SCOTLAND) ACT 2003

CROFTING COMMUNITY RIGHT TO BUY:
INTRODUCTION



**The Scottish
Government**

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Introduction

1. This short guide provides an introduction to the crofting community right to buy under Part 3 of the Land Reform (Scotland) Act 2003. It briefly explains what the crofting community right to buy is and provides information on guidance available to help communities find out more about the process.

What is the crofting community right to buy?

2. The crofting community right to buy in Part 3 of the Land Reform (Scotland) Act 2003 (“the Act”) creates a regime in which a crofting community body (CCB), representing an identified crofting community, may acquire eligible croft land (including salmon fishings, mineral rights (except mineral rights to oil, coal, gas, gold or silver)), associated with that crofting community, and sporting rights. A CCB may also acquire, at the same time, or within a specified period after it has purchased the eligible croft land, the interest of the tenant in tenanted land (interposed leases). This right – the crofting community right to buy – can only be exercised by a properly constituted CCB and when its application to do so has the consent of a majority both of the crofting community and of the crofters within that crofting community, and is approved by the Scottish Ministers.

3. The requirements of the crofting community right to buy in Part 3 of the Act are both complex and demanding. Crofting communities interested in acquiring their croft land etc should view the use of these provisions as a fall-back position in circumstances where efforts to acquire the land by agreement fail. Acquisition by agreement is likely to result in a deal which better suits the needs of both community and landowner. Even a failed attempt at acquisition by agreement can reveal a great deal of information which will subsequently prove useful in preparing an application. It can also help to avoid misunderstandings which could otherwise result in a flawed or incompetent application.

Guidance on crofting community right to buy

4. The Scottish Government has published guidance (“Crofting Community Right to Buy: Guidance”) to assist crofting communities interested in acquiring land under the crofting community right to buy provisions in Part 3 of the Act; landowners who might be affected by an application for consent to exercise the crofting right to buy; and individuals and businesses who feel that their interest in a particular area of land may be affected by an application. The guidance is written in three parts:

- the first part provides guidance specifically for CCBs;
- the second part provides specific guidance for landowners;
- the third part is specific for third parties.

5. The guidance covers the statutory requirements of Part 3 of the Act and associated subordinate legislation. References to the Act are included to direct the reader to relevant sections should they wish to read the legislation alongside this guidance.

6. The guidance and a downloadable application form are available on the Crofting Community Right to Buy pages of the Scottish Government website at <http://www.scotland.gov.uk/Topics/Rural/rural-land/right-to-buy/crofting>. Hard copies are available from Community Assets Branch (Area 1-D, Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY).

Further information

7. The crofting community right to buy process requires to be exercised in accordance with Part 3 of the Act. The Act and its explanatory notes can be accessed via the electronic links: http://www.opsi.gov.uk/legislation/scotland/acts2003/asp_20030002_en_1. You should also refer to the Crofting Reform etc Act 2007 (see section 31) at http://www.opsi.gov.uk/legislation/scotland/acts2007/asp_20070007_en_1. The consolidated 2003 Act can be viewed in the Statute Law Database at <http://www.statutelaw.gov.uk/>.

8. A useful introductory guide to the crofting community right to buy process is provided in the leaflet “The crofting community right to buy – your questions answered”, published by the Community Land Unit (CLU) of Highlands and Islands Enterprise. This can be obtained from CLU or viewed on the HIE website (<http://www.hie.co.uk/CLU-General/-/holding-area/crofting-right-to-buy-0604.pdf>).



Professional advice

9. The Scottish Government’s Community Assets Branch can assist with any queries on the crofting community right to buy process. It cannot, however, provide legal advice nor, due to the impartiality required in advising Ministers on a case-by-case basis, advice which would be seen as supporting a particular group, (e.g. a CCB, a landowner or any third party) involved in a specific case.

10. Any group within a crofting community wishing to create a CCB for the purpose of exercising the crofting community right to buy should obtain legal advice. It would also be appropriate for any landowner or other person with an interest in the land who considers that a crofting community right to buy application may affect their land or interest to seek similar professional advice, including legal advice and advice on valuation, environmental and land management issues.

PÀIRT 3 DE DH'ACHD ATH-LEASACHAIDH AN FHEARAINN (ALBA) 2003

**CÒIR COIMHEARSNACHD CROITEARACHD AIR CEANNACHD:
RO-RÀDH**



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CÒIR CEANNACH COIMHEARSNACHD CHROITEARACHD

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Ro-ràdh

1. Tha an stiùireadh goirid seo a' toirt iomradh don choimhearsnachd chroitreachd air a' chòir ceannach a th' aca tro Achd Ath-leasachaidh an Fhearainn (Alba) 2003. Tha e a' toirt seachad mìneachadh goirid air a' chòir a th' aig coimhearsnachd chroitreachd am fearann aca a cheannach agus a' toirt fiosrachaidh air an stiùireadh a th' ann a chuidicheadh coimhearsnachdan barrachd fhaighinn a-mach mun phròiseas.

Dè a th' ann an còir ceannach coimhearsnachd chroitreachd?

2. Tha a' chòir a th' aig coimhearsnachdan chroitreachd am fearann aca a cheannach fo Phàirt 3 de dh'Achd Ath-leasachaidh an Fhearainn (Alba) 2003 ("An Achd") air siostam a chruthachadh far am faod buidheann chroitreachd ann an coimhearsnachd (CCB), a tha a' riochdachadh coimhearsnachd chroitreachd aithnichte, talamh chroitreachd ion-roghnach fhaighinn (a' gabhail a-steach iasgach bhradain, còirichean mèinnearach (ach a-mhàin còirichean ola, guail, gas, òir no airgid)), a tha ceangailte ris a' choimhearsnachd chroitreachd sin, agus còirichean seilge. Faodaidh CCB cuideachd, aig an aon àm, no taobh a-staigh àm sònraichte às dèidh dhan talamh chroitreachd ion-roghnach a bhith air a ceannach, an ùidh a th' aig an teanant ann am fearann a th' air a leigeil a-mach air màl (aonta-màil eatarra) fhaighinn. Chan fhaodar a' chòir seo – a' chòir a th' aig coimhearsnachd chroitreachd am fearann aca a cheannach – a chur an gnìomh mura h-eil buidheann CCB le bun-stèidh ceart ann agus mura h-eil a' mhòr-chuid den choimhearsnachd chroitreachd agus na croitearan anns a' choimhearsnachd chroitreachd sin a' cur taic ris an iarrtas, agus mura h-eil e air a cheadachadh le Ministearan na h-Alba.

3. Tha na riathanas a tha mu choinneamh coimhearsnachd chroitreachd agus a' chòir a th' aca am fearann aca a cheannach fo Phàirt 3 den Achd iom-fhillte agus a' ciallachadh tòrr obrach. Bu chòir do choimhearsnachdan chroitreachd aig a bheil ùidh ann a bhith a' ceannach an fhearainn chroitreachd aca fhèin is mar sin air adhart, a bhith a' coimhead ris an reachdas mar dhòigh air rudan a thoirt air adhart ma 's e 's nach eilear air a bhith soirbheachail nan oidhirpean am fearann fhaighinn tro aonta. Tha sealbh fhaighinn le aonta, nas buailtiche rèite fhaighinn a bhios nas freagarraiche an dà chuid don choimhearsnachd agus don uachdaran.

Fiù 's ma dh'fhailicheas oidhirp sealbh fhaighinn tro aonta thig tòrr fiosrachaidh am bàrr a bhios feumail nuair a thig e gu bhith ag ullachadh iarrtais. Tha e cuideachd feumail oir faodar mì-thuigse a sheachnadh a dh'fhàgadh an t-iarrtas le gaoid no mi-fhreagarrachd air choireigin.

Stiùireadh air còir coimhearsnachd chroitearachd am fearann aca a cheannach

4. Tha Riaghaltas na h-Alba air stiùireadh fhoillseachadh (“Còir Ceannach aig Coimhearsnachd Chroitearachd am fearann aca a cheannach: Stiùireadh”) gus cuideachadh a thoirt do choimhearsnachdan chroitearachd aig a bheil ùidh san fhearann aca a cheannach tro na h-ullachaidhean a th’ ann am Pàirt 3 den Achd: do dh’uachdarain a dh’fhaodadh thighinn fo bhuidh na còir a th’ aig coimhearsnachd chroitearachd brath a ghabhail air a’ chothrom am fearann aca a cheannach; agus air daoine fa leth agus gnìomhachasan a tha den bheachd gum biodh buaidh aig leithid de dh’iarrtas air an ùidh aca ann an pàirt shònraichte den fhearann. Tha an stiùireadh air a sgrìobhadh ann an trì pàirtean:

- Tha a’ chiad phàirt a’ toirt stiùireadh seachad gu sònraichte do CCB’an;
- Tha an dàrna pàirt a’ toirt stiùireadh seachad gu sònraichte do dh’uachdarain;
- Tha an treas pàirt gu sònraichte do dhaoine eile.

5. Tha an stiùireadh a’ coimhead ris na riatasan reachdail a th’ ann am Pàirt 3 den Achd agus an fho-reachdais a tha na cois. Tha iomraidhean air an Achd mar phàirt dheth airson an leughadair a stiùireadh gu earrannan iomchaidh ma ’s e ‘s gu bheil iad airson an reachdas a leughadh aig an aon àm ris an stiùireadh seo.

6. Faodar an stiùireadh agus foirm-iarrtais a thoirt sìos bhon eadar-lìon bho dhuilleagan Còir Ceannach Coimhearsnachd Chroitearachd air làrach-lìn an Rìghaltais Albannaich aig <http://Scotland.gov.uk/Topics/Rural/rural-land/right-to-buy/crofting>. Gheibhear leth-bhreacan pàipeir bho Roinn So-mhaoin Coimhearsnachd (Sgìre 1-D, Taigh a’ Phentland, 47 Robb’s Loan, Dùn Èideann, EH14 1TY).

Tuilleadh Fiosrachaidh

7. Feumaidh am pròiseas fom bi coimhearsnachd chroitearachd a’ cleachdadh na còir am fearann aca a cheannach a bhith a rèir Pàirt 3 den Achd. Tha an Achd agus na notaichean mìneachaidh a tha na cois ri fhaighinn aig na ceangailean eileagtronaigeach: http://www.opsi.gov.uk/legislation/scotland/acts2003/asp_20030002_en_1. Bu chòir dhuibh cuideachd sùil a thoirt air Achd Ath-leasachaidh an Fhearainn is eile 2007 (faic earrann 31) aig http://www.opsi.gov.uk/legislation/scotland/acts2007/asp_20070007_en_1 Faodar an Achd 2003 daingnichte fhaicinn air Stòr-data Lagh Reachdail aig <http://www.statutelaw.gov.uk/>.



8. Tha stiùireadh feumail mu dheidhinn a’ phròiseis a th’ ann airson coimhearsnachd chroitreachd a tha a’ miannachadh na còir ceannach aice a chur an gnìomh, anns an leabhran “Còir ceannach na coimhearsnachd chroitreachd – ur ceistean air am freagairt”, air fhoillseachadh le Ionad Fearann Coimhearsnachd (CLU) Iomairt na Gàidhealtachd ’s nan Eilean. Faodar seo fhaighinn bhon CLU no fhaicinn air làrach-lìn Iomairt na Gàidhealtachd ’s nan Eilean (<http://www.hie.co.uk/CLU-General/-/holding-area/crofting-right-to-buy-0604.pdf>).

Comhairle Phroifeiseanta

9. Faodaidh Roinn So-mhaoin Coimhearsnachd an Riaghaltais Albannaich ceistean sam bith a fhreagairt air pròiseas còir ceannach coimhearsnachd chroitreachd. Chan fhaod i, ge-tà, comhairle laghail no, air sgàth gum feumte a bhith neo-eisimeileach nuair a thathar a’ comhairleachadh Mhinistearan air gach cùis fa leth, comhairle a thoirt seachad a dh’fhaodadh a bhith air a’ mheas mar gun robhar a’ toirt taic do bhuidheann shònraichte, (me CCB, uachdaran no neach sam bith eile) a tha an sàs ann an cùis shònraichte.

10. Bu chòir do bhuidheann sam bith ann an coimhearsnachd chroitreachd a tha airson CCB a stèidheachadh air sgàth ’s gu bheil iad airson còir ceannach coimhearsnachd chroitreachd a chur an sàs, comhairle laghail fhaighinn. Bhiodh e cuideachd iomchaidh do dh’uachdaran no neach sam bith eile aig a bheil ùidh anns an fhearann, agus tha a’ meas gum biodh buaidh aig iarrtas bho choimhearsnachd chroitreachd airson còir ceannach an fhearann a chur an sàs, comhairle phroifeiseanta den aon sheòrsa fhaighinn, a’ gabhail a-steach comhairle laghail agus comhairle air luachadh, gnothaichean àrainneachd agus riaghladh an fhearainn.