

Part 5 of the Land Reform (Scotland) Act 2016

# RIGHT TO BUY LAND TO FURTHER SUSTAINABLE DEVELOPMENT



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INFORMATION FOR COMMUNITIES



Scottish Government  
Riaghaltas na h-Alba  
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# WHAT IS THE RIGHT TO BUY LAND TO FURTHER SUSTAINABLE DEVELOPMENT?

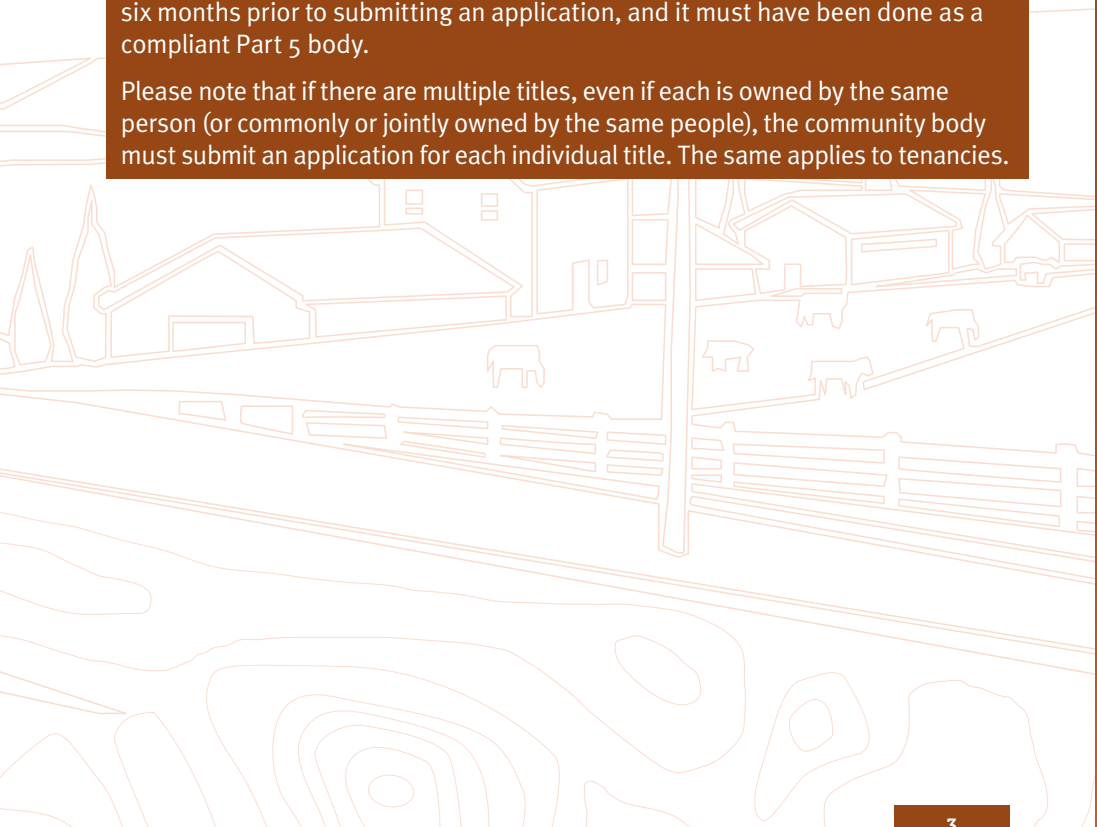
- The Right to Buy Land to Further Sustainable Development is a process under Part 5 of the Land Reform (Scotland) Act 2016 which allows community bodies throughout Scotland to apply for a right to purchase land and, in certain circumstances, an associated tenant's interest. If consent to an application is granted, the land can be purchased **compulsorily**.
- Community bodies can apply for consent to acquire the right to purchase any land. Land can include bridges and other structures built on or over land, inland waters, canals and the foreshore.
- Scottish Ministers must be satisfied that the land is eligible. There are a number of types of land which are ineligible for example, land on which there is a home (unless occupied under a tenancy) as well as the land that forms the curtilage of the home.
- Where Scottish Ministers consent to an application, the sale is compulsory and does not require a willing seller.
- The right to buy should be used where the community has proposals for that land that could further the achievement of sustainable development, and would result in a significant benefit to that community.

To be aware:

This right to buy is aimed at giving communities a process by which they can further the sustainable development in relation to land and, in doing so, also deliver significant benefit to the community. There are other rights to buy that can give groups the opportunity to purchase land. If your group is not sure which right to buy is right for them, please contact the Scottish Government Community Land Team for guidance.

All options should be considered by a community prior to submitting an application under the right to buy (for example, working in partnership with the landowner or tenant, agreeing a lease). The right to buy requires that the community body has already written to the owner, requesting a transfer of the land or where the application is in respect of a tenant's interest, the tenant requesting the assignment of the tenant's interest. This must have been at least six months prior to submitting an application, and it must have been done as a compliant Part 5 body.

Please note that if there are multiple titles, even if each is owned by the same person (or commonly or jointly owned by the same people), the community body must submit an application for each individual title. The same applies to tenancies.



# WHAT THE RIGHT TO BUY IS NOT

- It **is not** intended to be used as a means to block or blight developments on land (e.g. “NIMBY”). Concerns about developments should be addressed through the appropriate channels.
- It **is not** intended to be used to stop a landowner from developing their land if the community disagree with their plans. These concerns should be addressed through the appropriate channels.
- It **is not** intended to be used as a means to prevent or block other interested parties from purchasing land.
- An application **is not** meant to preserve the status quo. The application needs to show that it will further sustainable development in relation to the land.

To be aware:

Where an application to acquire land appears to demonstrate any of the points noted above, Scottish Ministers may not approve the application.

# WHAT LAND CAN BE REGISTERED?

An application to acquire land can be made in relation to any type of land/buildings including, for example:

- brown and green field sites;
- inland waters and canals;
- woodland;
- buildings;
- schoolhouses;
- halls;
- churches;
- shops;
- foreshore.

(this list is not exhaustive, it is only for illustration purposes)

To be aware:

Ineligible land consists of a range of land including an individual's home (other than where occupied under a tenancy) and land pertaining to an individual's home. If you are unsure whether land is eligible or not, please contact the Community Land Team, who can provide further guidance.

## WHO CAN APPLY?

Your community must form a community body to apply for consent to purchase land. This must either be a:

- Company limited by guarantee;
- Scottish charitable incorporated organisation;
- Community benefit society; or a
- Body corporate (only if you plan to nominate a third party purchaser).

Your community body must comply with the relevant requirements of Section 49 of the Act.

Along with other requirements of section 49 of the Act, the community body must (for example):

- be controlled by members of the community;
- be defined geographically;
- meet the requirements for defining your community as set out in section 49 of the Act; and
- ensure its main purpose is consistent with furthering the achievement of sustainable development.

Scottish Ministers must have given written confirmation that the main purpose of the community body is consistent with furthering the achievement of sustainable development, before the community body can apply for consent to purchase the land under the Act.

# STEPS TO BE TAKEN BEFORE SUBMITTING AN APPLICATION FOR CONSENT

## Community support:

A ballot of the eligible voters in the community's defined area must be undertaken during the six months immediately prior to the date the application is submitted to Scottish Ministers. You may undertake the ballot yourselves or may wish to consider seeking professional advice or services. Within 14 days of the ballot being held the community body must publish the results in an online or paper edition of a newspaper circulating in the area and if you have a publicly accessible website or webpage, on that also.

The ballot result must be submitted to Scottish Ministers within three weeks (21 days) of the ballot taking place. If you are submitting the application for consent to Scottish Ministers before the expiry of the 21 day period, you must include the ballot result and supporting documents as part of the application.

## Evidence of requesting a transfer of the land

The community body will have to provide evidence of a written request to transfer the land or, as the case may be, the tenant's interest prior to submitting a right to buy application. The request must have been sent to the owner or tenant at least six months prior to the application. The community body should use the correct form to request a transfer of the land (the form can be found on the Scottish Government website). The request should be reasonable and the community body will need to include the terms of any offer that they made in their application.

### Ownership

- It is important the community body provides Scottish Ministers with the correct landowner and, where applicable, tenant details. Ownership of land is dealt with by Registers of Scotland who can assist in identifying ownership. <http://www.ros.gov.uk/>.
- The community body must identify any creditors in a standard security (e.g. mortgage lenders).
- Companies House will provide up-to-date details of a company's registered address.

If the ownership and, where applicable, tenant's details are incorrect the application will be declined.

# THE APPLICATION FORM

The application form requires information including:

**Section 1** – name of the community body.

**Section 2** – contact information and membership details of the community body; and the community definition (both written and mapped); details of third party purchaser (if any).

**Section 3** – details of the land or tenant’s interest for which consent for the right to buy is sought (both written and mapped) and details of the community’s connection to the land or land associated with the tenant’s interest. Further guidance relating to submitting compliant maps is provided at pages 10 and 11.

**Section 4** – details of the ownership of the land; where the application is in respect of a tenant’s interest, the details of the tenant; details of those who have legally enforceable rights such as leases over the land and creditors with a standard security of the land; and details of the steps taken by the community body to trace owners, tenants or creditors; types of rights or interests over the land and maps of such areas.

**Section 5** – details about the ballot.

**Section 6** – details of the community body’s steps to acquire the land or tenant’s interest, including evidence of the written request to transfer and any terms and date of any offer to transfer.

**Section 7** – details of the community body’s proposals including why the acquisition of the land or tenant’s interest is likely to further the achievement of sustainable development in relation to the land.

**Section 8** – The declaration at the end of the form must be signed by two different members of the community body. By signing the declaration they are confirming that they are authorised by the community body to sign the application form, and that they understand that if any information provided is inaccurate then Scottish Ministers may not register the application. Where there is a third party purchaser, they must also sign the declaration on the last page. If the third party purchaser is an organisation, two representatives must sign on behalf of the organisation.



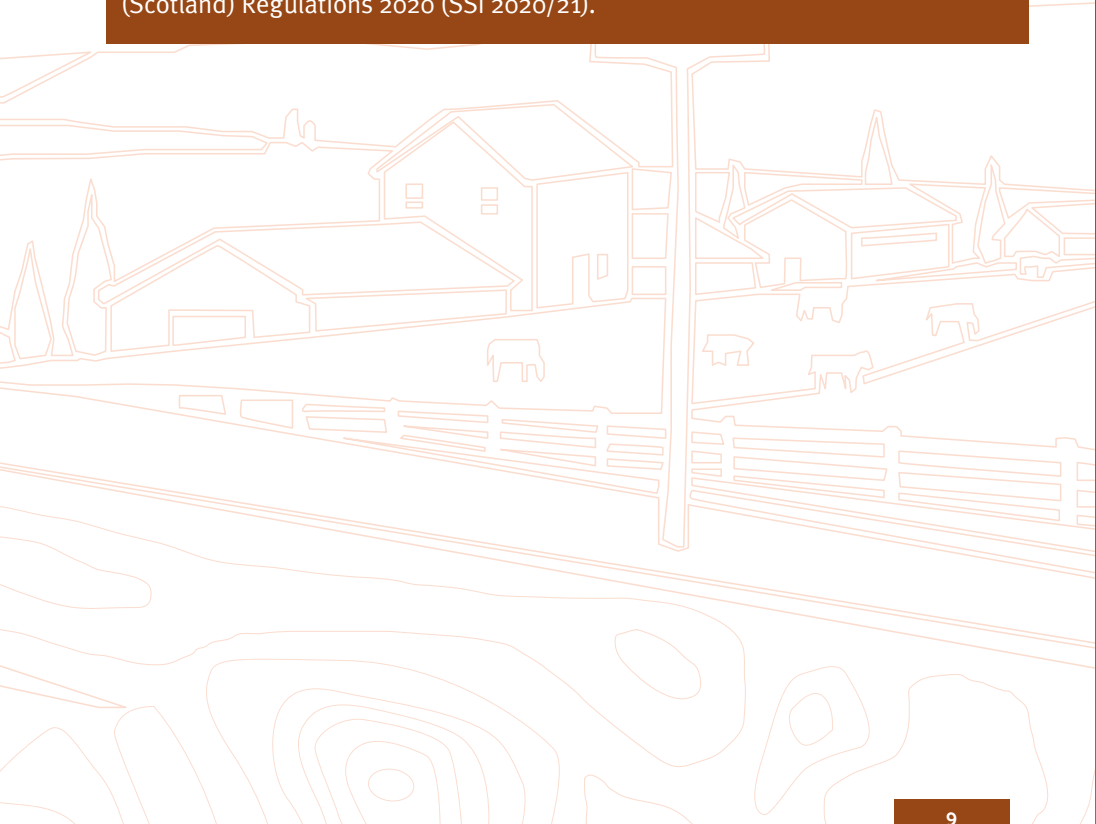
To be aware:

The Community Land Team is happy to look over draft applications before a final application is submitted.

All applications received by Scottish Ministers are made publicly available on the Register of Applications by Community Bodies to Buy Land (RoACBL).

You must answer all applicable questions on the application form and provide the required supporting documentation. If you provide Scottish Ministers with incorrect or missing information Scottish Ministers will decline to consider your application.

Any maps, plans or other drawings submitted as part of the application must conform to the requirements in the Right to Buy Land to Further Sustainable Development (Applications, Written Requests, Ballots and Compensation) (Scotland) Regulations 2020 (SSI 2020/21).



# SUBMITTING COMPLIANT MAPS, PLANS AND OTHER DRAWINGS

At least two maps, or other drawings should be submitted with an application.

The first of these is a community boundary map or drawing, showing the entire boundary location of the community according to the community definition as set out in the articles of association, constitution or registered rules.

The second of these is a map, plan or drawing of the land in relation to the application which is being made. This can be a map accompanying a title deed, or a close up of the immediate area around the land to be registered, however, the map must conform with the requirements of the Right to Buy Land to Further Sustainable Development (Applications, Written Requests, Ballots and Compensation) (Scotland) Regulations 2020 (SSI 2020/21).

Maps, plans or other drawings **must clearly:**

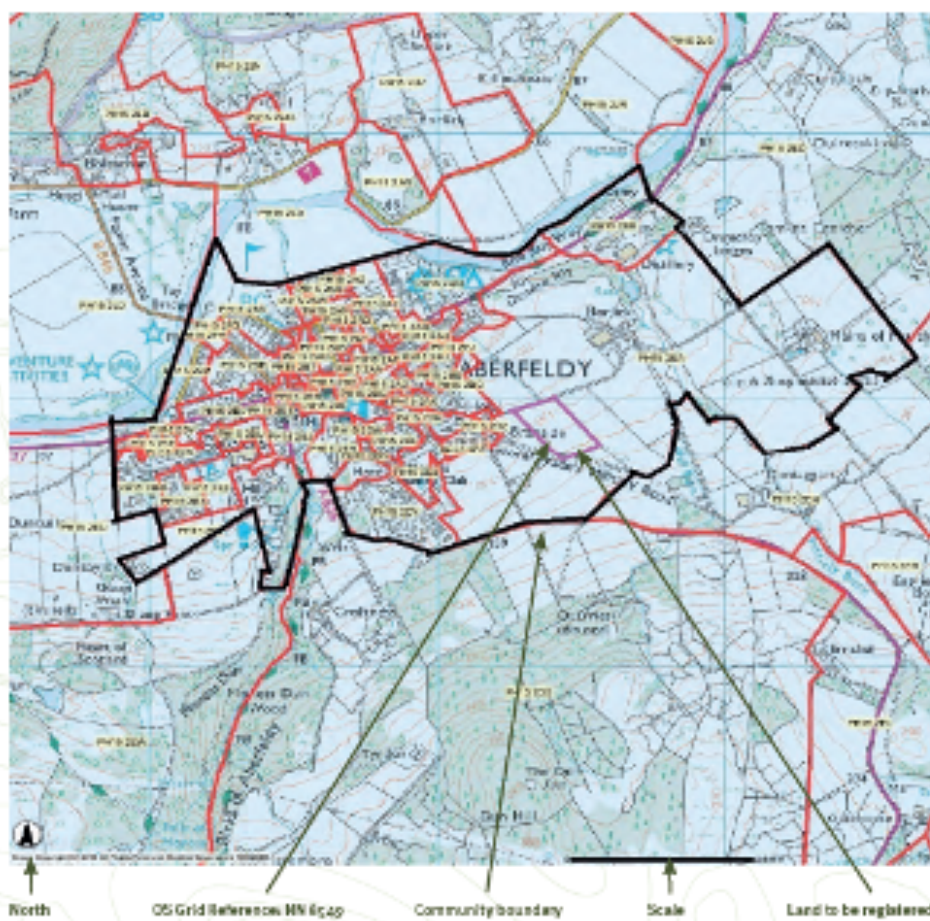
- be drawn to a metric scale corresponding to a scale used by the Ordnance Survey for that land (or the land associated with the tenancy as the case may be);
- contain map grid references (e.g. NT1234) and contain sufficient detail;
- show the compass orientation of north;
- show the boundary of the land or community. Using a distinctive colour helps distinguish it from surrounding areas; and
- where measurements are given, be shown to one decimal place.

To be aware:

Please ensure that all maps provided fully comply with sections 2, 3 and 4 of the application form.

The map below is an extract of the CRtB mapping tool which you might find helpful when mapping or defining your community. The map can be accessed via the link <https://crtb.sedsh.gov.uk/crtb/>

Please note, the example below is for illustration purposes only and does not represent any proposed CRtB application or existing CRtB registered interest.



# THE CONSENT PROCESS/TIMESCALES

**Stage 1:** A compliant application is received by Scottish Ministers. This includes ballot results, if these have not already been notified to Scottish Ministers, maps or drawings and any other supporting documents.

**Stage 2:** Community body also send copies of the full application to the owner of the land and, where the application is in respect of a tenant's interest, the tenant, as well as any third party purchaser, and/or heritable creditors. Scottish Ministers send notification of the application to the owner of the land, where the application is to buy a tenant's interest, the tenant, if a third party purchaser is nominated, the third party purchaser and any creditors. These parties will be invited along with the adjacent landowners (plus any other party as determined by Scottish Ministers) to provide views on the application. Once the application appears on the Register of Applications by Community Bodies to Buy Land, a prohibition on any transfer of the land, or any action being taken with a view to transfer of the land or, where the application is in respect of a tenant's interest, on any assignation of the tenant's interest, or any action being taken with a view to assign the tenant's interest, begins. Scottish Ministers will also publicise the application on the Scottish Government website and invite anyone with an interest to send in their views.

**Stage 3:** All parties invited to give their views have 60 days from the date of the invitation to provide views on the application (if they wish).

**Stage 4:** If views are received, these will be forwarded to the community body who will have 60 days to provide any comments.

**Stage 5:** The community body and all parties invited to give their views will be notified of the Scottish Ministers' decision. Scottish Ministers cannot make a decision on the case before a further 60 days have passed, from the last day of the previous 60 day period (total number of days from receipt of application = 180).

**Stage 6:** If consent to proceed is given, the valuation of the land is undertaken by an independent valuer appointed by Scottish Ministers within seven days of granting of consent. A valuation can be appealed to the Lands Tribunal for Scotland within 21 days of receiving the notice of the valuation.

**Stage 7:** The community body, landowner, where the application is to buy a tenant's interest, the tenant, or member of the community can appeal the Scottish Ministers' decision by lodging an appeal with the Sheriff Court, within 28 days of the date of the decision.

**Stage 8:** If consent is given, the community body will have 6 months from the decision date to complete the transfer, or later, by agreement or where the assessment of the valuation has not been completed within 4 months of the consent date, or where the valuation or determination is subject to an appeal which has not been decided within 4 months of the consent date. In these, completion is to take place not later than 2 months after the assessment or determination is completed or there is a decision on an appeal. If consent is not given, Scottish Ministers will remove the prohibition placed on the land, on the day detailed in the Right to Buy Land to Further Sustainable Development (Eligible Land, Specified Types of Area and Restrictions on Transfers, Assignations and Dealing) (Scotland) Regulations 2020 which is determined by factors detailed in those Regulations.

To be aware:

Any failure by Scottish Ministers to comply with the timescales within which they must make their decision does not affect the validity of their decision.

A community body which has bought under Part 5 must notify Scottish Ministers of any changes to their governing documents.

# THE PRICE TO BE PAID FOR THE LAND OR TENANT'S INTEREST

If Scottish Ministers give consent for the acquisition of the land or the tenant's interest, they will appoint an independent valuer to assess the market value within 7 days of giving consent. The valuer will have eight weeks to give notice of the assessed value.

As part of the valuation process, the valuer will invite representations from the owner, tenant (where a tenant's interest is being purchased), third party purchaser (if nominated) and the community body about the value of the land or tenant's interest. Cross representation also forms part of this process so both parties have a chance to comment on the submissions made by the other party to the valuer.

The consideration is as assessed by the independent valuer, appointed by Scottish Ministers or, if the valuation is appealed, an amount determined by the Lands Tribunal for Scotland.

The date of entry and payment of the consideration must be within six months from the date of Scottish Ministers decision to consent to the acquisition of the land, however, a later date can be agreed by both parties or, where the assessment of the valuation has not been completed within 4 months of the consent date or where the valuation or determination is subject to an appeal which has not been decided within 4 months of the consent date. In these circumstances completion is to take place no later than 2 months after the assessment or determination is completed or there is a decision on an appeal.

To be aware:

Any failure by Scottish Ministers to comply with the timescales does not affect the validity of their decision.

## USEFUL LINKS:

The Community Right to Buy page:

<https://www.gov.scot/policies/land-reform/community-right-to-buy/>

Register of Application by Community Bodies to Buy Land:

<https://roacbl.ros.gov.uk/viewRegister.html>

Land Reform (Scotland) Act 2016:

<http://www.legislation.gov.uk/asp/2016/18/contents/enacted>

Right to Buy Land to Further Sustainable Development (Eligible Land, Specified Types of Area and Restrictions on Transfers, Assignations and Dealing) (Scotland) Regulations 2020:

<http://www.legislation.gov.uk/ssi/2020/114/contents/made>

The Right to Buy Land to Further Sustainable Development (Applications, Written Requests, Ballots and Compensation) (Scotland) Regulations 2020:

<http://www.legislation.gov.uk/ssi/2020/21/contents/made>

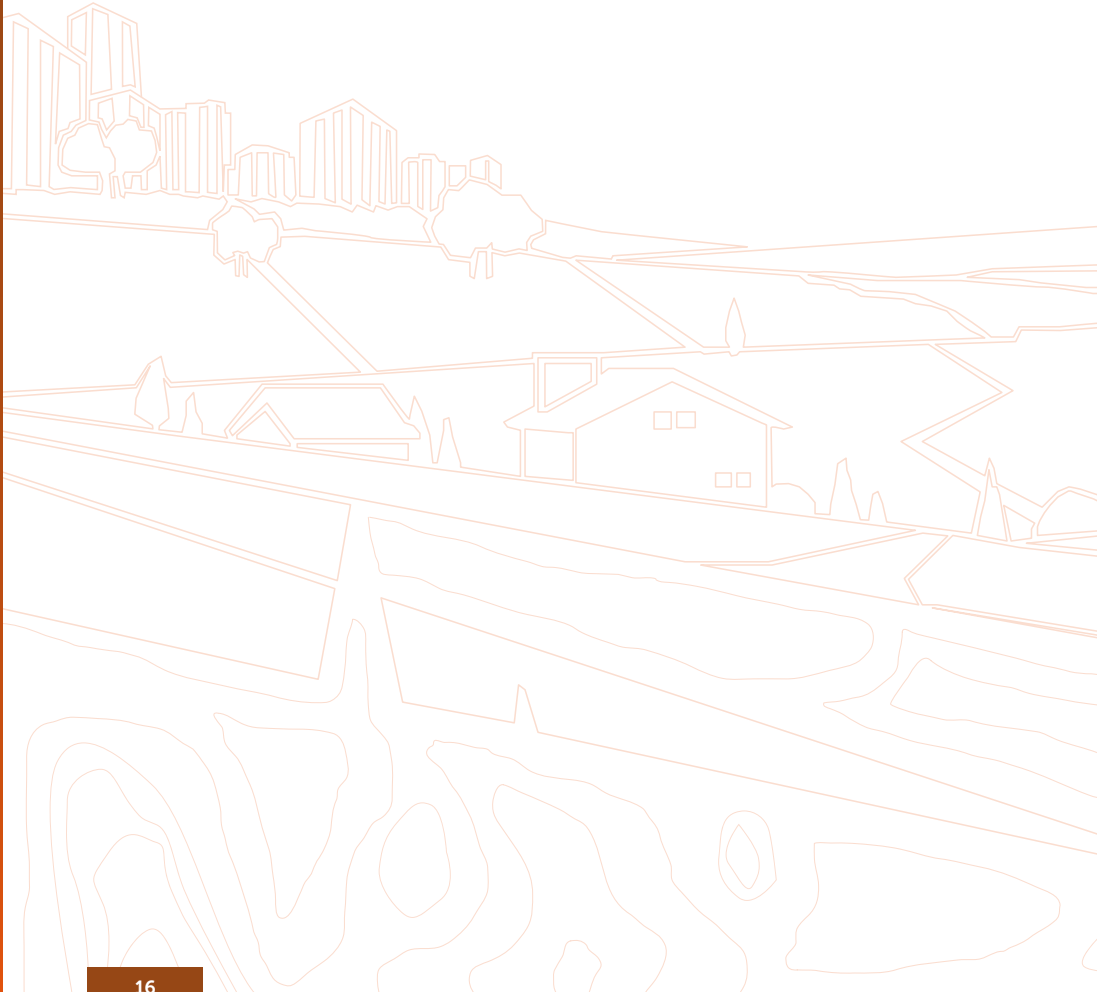


# HOW TO GET IN TOUCH

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

Telephone: 0300 244 9822

Email: [crtb@gov.scot](mailto:crtb@gov.scot)





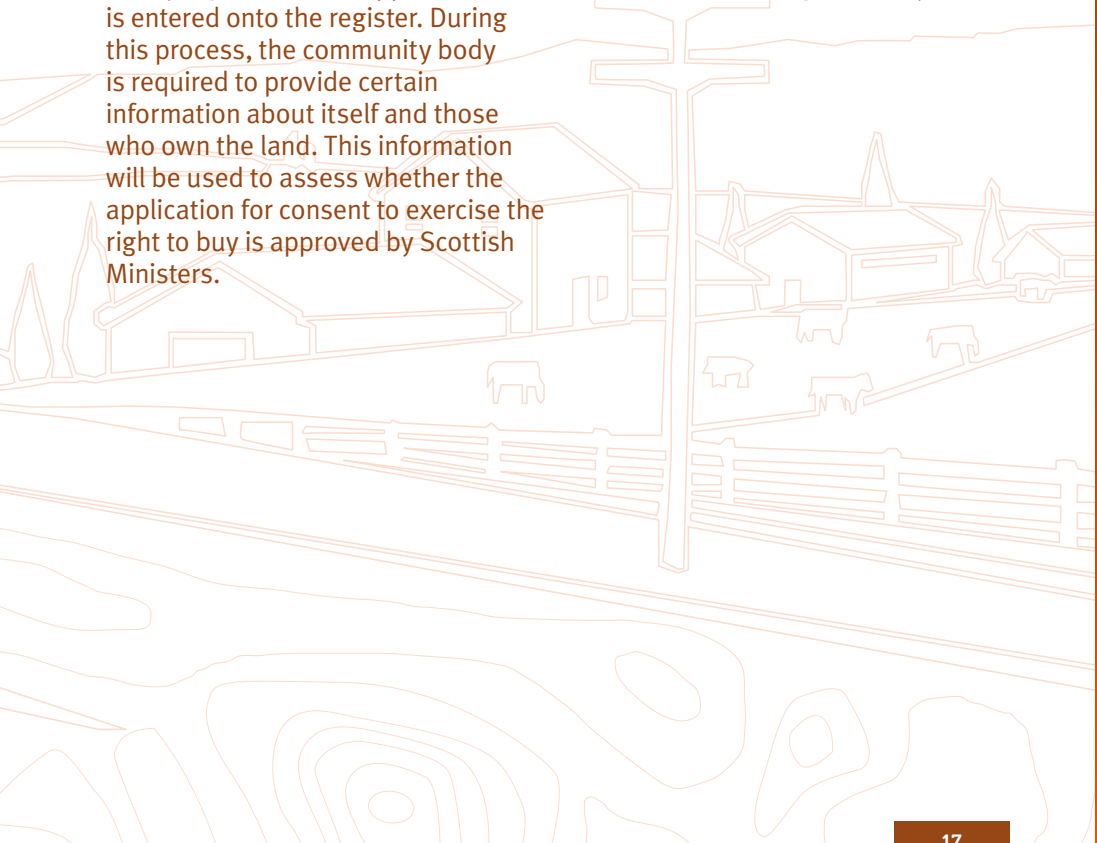
# DATA PROTECTION

In order to consider an application on the register, there is a requirement to process the personal data provided within any documentation received by Scottish Ministers in relation to that right to buy. The basis for processing this personal data is in accordance with Article 6(1)(c) and/or Article 6(1)(e) of the General Data Protection Regulations (GDPR).

When a community body submits a compliant application under the right to buy legislation, the application is entered onto the register. During this process, the community body is required to provide certain information about itself and those who own the land. This information will be used to assess whether the application for consent to exercise the right to buy is approved by Scottish Ministers.

All personal data will be redacted before appearing on the register. The data will be used to assist the Scottish Ministers to determine whether the purchase should receive consent to proceed.

The data captured will be kept on the register as a record of the application and any decisions. This information is used by other community bodies as a source of information and guidance for their own applications, as well as a historic record of rights to buy.



## WHAT ARE YOUR RIGHTS?

If at any point you believe the information we process on you is incorrect you can request to see this information through a subject access request.

You may have a right to have this information corrected, deleted and to object to, or restrict the processing of the information held.

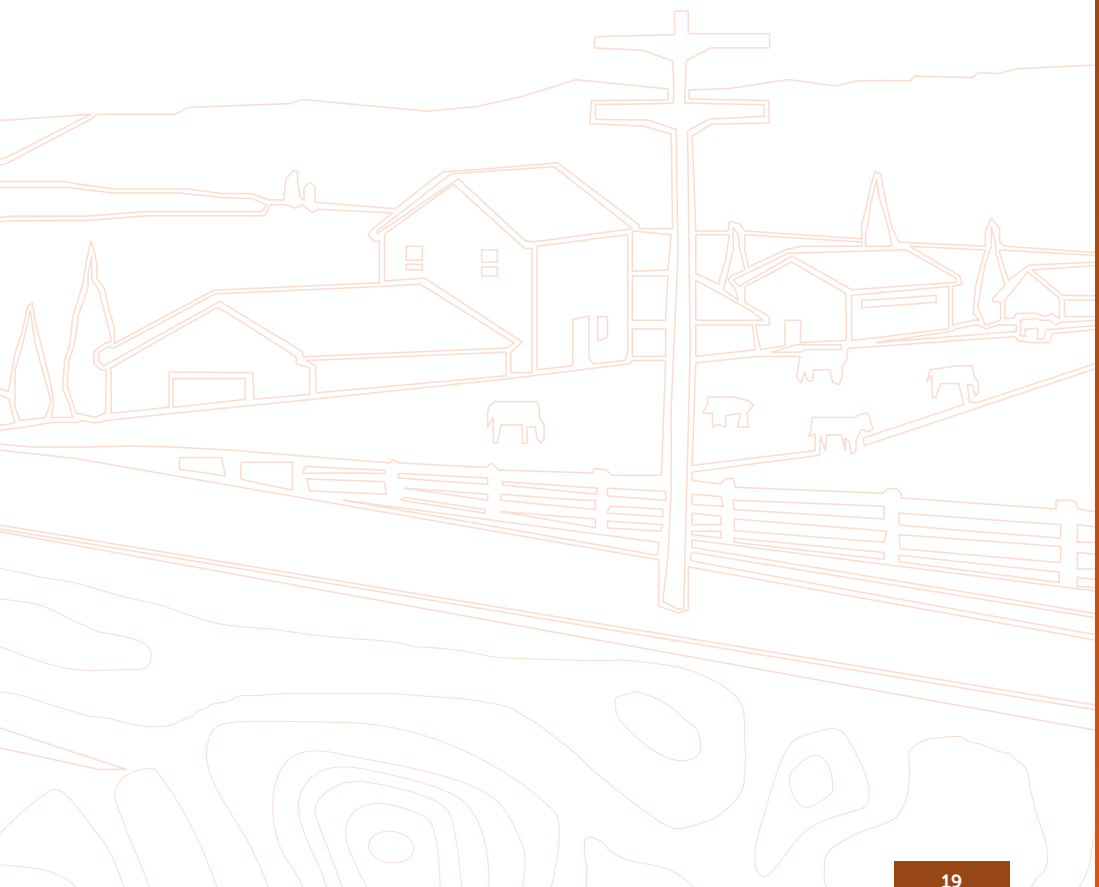
If you wish to raise a complaint on how your personal data is handled, you can contact the Scottish Government Data Protection Officer ([dpa@gov.scot](mailto:dpa@gov.scot)) who will investigate the matter.

If you are not satisfied with the response or believe we are not processing your personal data in accordance with the law you can complain to the Information Commissioner's Office (ICO).

The Information Commissioner's Office – Scotland  
45 Melville Street  
Edinburgh  
EH3 7HL

Phone: 0303 123 1115

Email: [Scotland@ico.org.uk](mailto:Scotland@ico.org.uk)





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