



Land Reform (Scotland) Act 2003

2003 asp 2

PART 3

THE CROFTING COMMUNITY RIGHT TO BUY

CHAPTER 2

EXERCISE OF RIGHT TO BUY

75 Ballot to indicate approval for purposes of section 74(1)(m)

- (1) The crofting community, defined in pursuance of section 71 above in relation to the crofting community body which has applied to buy land [^{F1}, the interest of a tenant over land] or sporting interests, are to be taken for the purposes of section 74(1)(m) above as having approved a proposal to buy if—
- (a) a ballot of the members of the crofting community so defined has, during the period of six months which immediately preceded the date on which the application was made, been conducted by the crofting community body on the question whether the crofting community body should buy the land [^{F2}, tenant's interest] or sporting interests; and
 - (b) the majority of—
 - (i) those voting; and
 - (ii) the members of the crofting community so defined who voted and who are tenants of crofts within the land which the crofting community body has applied to buy or, as the case may be, within land over which the sporting interests which the crofting community body has applied to buy may be exercised [^{F3} or within the land over which the tenant's interest subsists],have voted in favour of the proposition that the crofting community body exercises its right to buy .
- (2) The ballot shall be conducted as prescribed; and the provisions prescribed shall include provision for the ascertainment and publication of the number of persons eligible to vote in the ballot, the number who did vote and the numbers of valid votes respectively cast for and against the proposition.

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- (3) If the ballot is not so conducted, the crofting community body's right to buy the land [^{F4}, tenant's interest] or sporting interests which are the subject of the body's application is, so far as proceeding on that application, extinguished.
- (4) The crofting community body which conducts a ballot shall, within 21 days of the ballot (or, if its application under section 73 above is given before the expiry of that period, together with the application) and in the prescribed form of return, notify—
- (a) the result;
 - (b) the number of persons eligible to vote;
 - (c) the number of those persons who are tenants of crofts within the land which the body proposes to buy [^{F5}or as the case may be within the land over which the tenant's interest subsists];
 - (d) the number of persons who voted and the number of those persons who are such tenants; and
 - (e) the number of persons who voted in favour of the proposal to buy and the number of those persons who are such tenants,
- to Ministers.
- [^{F6}(4A) Ministers may require the crofting community body—
- (a) to provide such information relating to the ballot as they think fit, and
 - (b) to provide such information relating to any consultation with those eligible to vote in the ballot undertaken during the period in which the ballot was carried out as Ministers think fit.
- (4B) Subject to subsection (6), the expense of conducting a ballot under this section is to be met by the crofting community body.]
- (5) Any person who, whether alone or in common with others—
- (a) has a right of pasture or grazing, or holds a common grazing, within the land which the crofting community body has applied to buy or, as the case may be, within land over which the sporting interests which the crofting community body has applied to buy may be exercised [^{F7}or within the land over which the tenant's interest subsists]; or
 - (b) holds any part of that land runrig,
- is, for the purposes of this section, to be regarded as a tenant of a croft within the land which the body proposes to buy [^{F8}or within the land over which the tenant's interest subsists].
- [^{F9}(6) Ministers may by regulations make provision for or in connection with enabling a crofting community body, in such circumstances as may be specified in the regulations, to apply to them to seek reimbursement of the expense of conducting a ballot under this section.
- (7) Regulations under subsection (6) may in particular make provision in relation to—
- (a) the circumstances in which a crofting community body may make an application by virtue of that subsection,
 - (b) the method to be applied by Ministers in calculating the expense of conducting the ballot,
 - (c) the criteria to be applied by Ministers in deciding whether to make a reimbursement to the applicant,
 - (d) the procedure to be followed in connection with the making of—

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- (i) an application to Ministers,
- (ii) an appeal against a decision made by Ministers in respect of an application,
- (e) persons who may consider such an appeal,
- (f) the powers of such persons.]

Textual Amendments

- F1** Words in s. 75(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F2** Words in s. 75(1)(a) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F3** Words in s. 75(1)(b)(ii) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F4** Words in s. 75(3) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F5** Words in s. 75(4)(c) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F6** S. 75(4A)(4B) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 66(2)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)
- F7** Words in s. 75(5)(a) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(d)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F8** Words in s. 75(5) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(5)(d)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F9** S. 75(6)(7) inserted (16.12.2016 for specified purposes, 24.2.2021 in so far as not already in force) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 66(3)**, 142(1); S.S.I. 2016/394, art. 2, sch.; S.S.I. 2020/448, art. 2 (with art. 3)

Changes to legislation:

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