

Consultation Response

Community Right to Buy

October 2025



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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Rural affairs and Property and Land Law Reform sub-committees welcome the opportunity to consider and respond to the Scottish Government consultation: *Community right to buy review*.¹ The sub-committees have the following comments to put forward for consideration.

General Comments

We note from the ministerial forward that this review is aimed at identifying what improvements could be made to strengthen the contribution the rights make to delivering increasing community ownership of land and property.²

We have no comments on the policy aim of this review but would stress that any changes to community right to buy legislation that come forth from this review must

- create clear legal rights and duties for all parties.
- be supported by a demonstrable evidence base.
- avoid creating unreasonable burdens on landowners and communities.
- strike an appropriate balance between the rights of landowners and those of the community.

We have outlined specific comments in relation to these points below.

¹ [Community right to buy: review - Scottish Government consultations - Citizen Space](#)

² [Community right to buy review: consultation - gov.scot](#)

Questions

Potential improvements to Community Right to Buy

1. Do you think that the three existing compulsory rights should be merged? If so, given that each of the existing ones provide a different level of rights to communities, in what way should they be merged?

Whilst we understand that merging the processes would bring advantages, as one timeline and process that applies to all three Community Right to Buy (CRTB) rights would create more certainty for landowners and community groups, we do not think it appropriate that the different types of rights are merged.

We consider there to be too many differences between the various Community Right to Buy (CRTB) rights including the level of community support required or ballot process. To give an example, if the existing thresholds of community support are deemed to be appropriate for their use, we consider that there is a risk that by merging these rights that the requirements are either increased or decreased for the sole purpose of creating uniformity.

2. Should the newly merged compulsory rights be based on the condition of the land or on the owner's use of the land? For example, the existing Part 3A rights are based on the condition of the land, whereas Part 5 rights are based on how it is being used

We would welcome further clarity from the Scottish Government on which CRTB rights it considers to no longer meet community needs or Scottish Government policy aspirations.

3. Do you support the Scottish Government recommendation that the residence and voting eligibility requirement is reduced to being anything over 50% of the community? What ratio of ordinary members should be required of a community body to ensure that control of community-owned assets remains with local members of the community?

Generally speaking, we would highlight that Questions 3, 4, 5 and 6 (about levels of community support) concern proposals that appear to impose solutions on communities. Whilst we consider CRTB has many benefits, we would caution against automatically assuming that CRTB is the right choice for every community and indeed, that CRTB will be universally accepted by all within the community.

We consider it appropriate that the requirement here should remain as a strong majority, as if communities are struggling to meet the 75% threshold, then this may be indicative of a lack of appetite or community support for a buy-out. We would highlight that the current thresholds allow for people from outside the

community to provide specialist support and knowledge should it be needed, or beneficial to the community. Furthermore, we consider it more important to examine why community bodies struggle to meet the 75% ordinary member threshold, rather than arbitrarily lower the threshold.

4. Should the ratio of members required to attend be amended from the current 10%? If so, what proportion do you think would still ensure that the local community is fairly represented at general meetings of the company?

We consider that reducing the ratio raises the risk of a CRTB becoming dominated by one or two individuals, which would not necessarily be representative of a community.

5. a) Could some of these levels of community support and turnout required be reduced while still providing sufficient evidence that the proposals have community support? If so, which ones?

We consider it appropriate that the existing levels should stay as they are. Difficulty meeting the existing thresholds may be a sign that there is insufficient community support for the proposals. If more than 75% of a community are ambivalent or against a proposal, can it really be said to have community support?

We would also highlight that communities have to continue to manage and develop the land in perpetuity. As such, it is important that there is sufficiently strong support at the start of a project – as support may decline over time due to changes of circumstance for members of the community.

5b. Should the demonstration of support in a ballot be solely based on the percentage of the community in support (i.e. with no separate minimum turnout requirement)—so for example a 25% threshold could be met by a 50% turnout and 50% support—or a 25% turnout and 100% support?

We have no comments.

5c. If a ballot were based solely on the percentage of community support, with no minimum turnout, should the percentage of those against the proposals be considered, instead of just those in favour?

Yes. We consider it appropriate that if there is 25% support to meet the lower threshold, it should be considered whether the numbers against the proposal are similar, equal to or higher than those in favour. To give an example, if a community has met the lower threshold but there are more people against a proposal than in

favour then it would be incorrect to claim that the ballot had the support of the community.

6. What level of community support should be required for a late application to be accepted? The legislation requires it to be “significantly greater” than the 10% required for a timeous application. In practice, this has been taken to be 15%.

We have no comments.

7. Should late applications only be accepted from community groups that can demonstrate that they are compliant with the Right to Buy provisions, prior to the owner taking steps to transfer (and should we define what is considered to be a step to transfer)?

Yes. We consider it appropriate to define the steps to transfer as this would provide much needed clarity to all parties involved in these matters, alongside reducing uncertainty for landowners and shortening the timelines involved.

8. Should late applications still require a community group to demonstrate that they had taken steps towards acquiring the land before the owner has taken steps to dispose of it? Further details will be developed on what those steps should be as part of the review.

Yes. We would highlight that if community groups think that a property would be beneficial to them, then they should be able to demonstrate that they at least had interest in the property at an earlier stage, rather than simply when they become aware that it is available. We note that this may cause some difficulties for communities in balancing the cost of completing applications for properties that have little prospect of ever becoming available, but it would be unreasonable if community groups were given the powers to effectively pick and choose as properties come on the market.

9. Should it be a requirement of a late application that a detailed business plan for the asset be included, and should we define how much detail is required?

No. We consider this disproportionate and an unreasonable burden on community groups. We consider that the group in question should provide evidence as to how they will use the asset in a better way. We would highlight that community groups may not have the ability or the funds available to provide a business plan in any event, and this requirement may prejudice them.

10. If a late application is approved, should the owner be prohibited from removing the asset from sale (given that they were already in the process of selling it)?

No. An owner of land is entitled to withdraw from sale up to the point of concluded missives (and thereafter with a penalty), we consider that this should remain the same in the context of CRTB situations.

11. Should third party purchasers remain an option under the compulsory rights to buy?

We consider this appropriate in limited circumstances and only where the third-party nominee can fulfil the CRTB requirements, and the asset will remain under community control.

12. If third party purchasers remain an option, should requirements be placed on the structure of the third-party purchaser for it to be eligible, for example in line with the compliance requirements placed on community group applicants?

Yes. We consider it appropriate that any purchase that is exercised by a third-party on behalf of a community body should be considered and held to the same standards and requirements as community group applicants (effectively giving the third-party the right to step in to the process in place of community). Furthermore, we consider it appropriate that there should be some link or connection to tie both parties to their requirements.

13. Should the third-party purchaser be required to have an agreement in place with the community body that shows the future relationship between the two and any business plan in place for the asset, as part of the application?

Yes. Please see our answer to question 12.

14. Should the existence of option agreements (although not their details) be something that an asset owner must make known to community groups that have applied for a right to buy the asset?

We would highlight that option agreements (and wider business dealings) are private matters and there should not be a requirement to disclose these at the application stage. We do think it appropriate that in the event that the application is successful, then it would be appropriate to disclose this information at that point.

We would further highlight that this information may be available in the Register of Persons Holding a Controlled Interest in Land (RCI) held by Registers of Scotland. We would welcome clarity from the Scottish Government whether or not they consider that such option agreements are within scope of the RCI.

15. Rather than automatically requiring that an application is declined, should an application for a right to buy proceed through assessment, and then, if approved, take second place to the option agreement, meaning that if the option is not taken up, then the community body right to buy will apply?

We have no specific position on this point. We would highlight that option agreements can last for years. Given this, we would appreciate clarity from the Scottish Government on whether the CRTB exercised in a case such this would be reevaluated periodically to ensure that it still meets the statutory requirements in the event that the option agreement is not taken up.

16. Should there be a limitation on the types of option agreement that cause an application to be declined? For example, should they only be relevant if not between members of the same family, or companies within the same group?

No. We do not consider this appropriate as there are many legitimate reasons why an option may exist between relatives or group companies, and the rights of the landowner should not be impacted.

17. Should the period allowed to submit an appeal be extended to allow both parties to make a more informed decision on whether to appeal? If so, how long should it be, given that the asset is free to be sold if the application is rejected?

No. We do not consider this appropriate as currently, the appeal period is consistent with other periods for appeals. Furthermore, we consider that this may cause issues with the fair sale process, and the CRTB shouldn't have any more impact on a willing buyer or seller than is necessary.

18. Should the registration period be extended from the current five-year period?

No, we consider it appropriate that it should remain at five years. We would highlight that if a longer registration period were implemented, it may be difficult to re-register if public support for a project decreases or increases.

Furthermore, we would highlight that if the issue is the process of registration, consideration could be given towards simplifying the requirements in the case of renewals of existing applications, with renewals only having to confirm that all necessary terms are still met and identifying any changes.

19. Do you wish to make any other comments in relation to the matters raised by this consultation and which you feel have not been covered by any of the earlier questions?

We have no specific comments.



For further information, please contact:

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