

Community Right to Buy Route Map

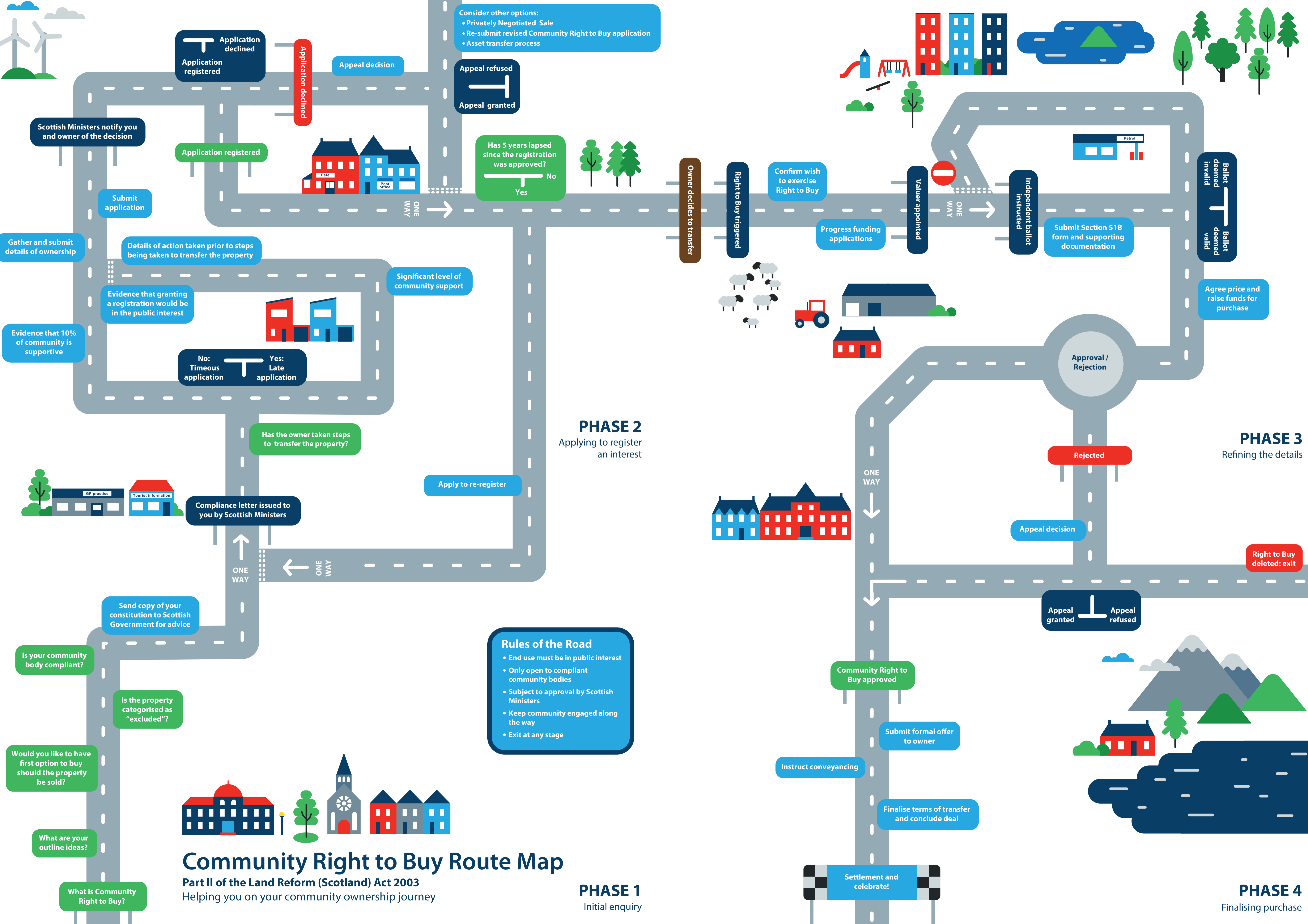
Part II of the Land Reform (Scotland) Act 2003
Helping you on your community ownership journey

PHASE 1
Initial enquiry

PHASE 4
Finalising purchase

Rules of the Road

- End use must be in public interest
- Only open to compliant community bodies
- Subject to approval by Scottish Ministers
- Keep community engaged along the way
- Exit at any stage



PHASE 2 - Applying to register an interest

No:
Timeous application
Yes:
Late application

There are two types of application:

Timeous applications are applications which are made when no action has been taken by the landowner or creditor with a view to transfer the land, for example putting the land on the market or entering into private negotiations with a potential purchaser. In this case, you must provide evidence that at least 10% of the eligible voters within your defined community (as defined in your governing document) are supportive of the proposed community ownership of the land or property. This could be done by way of a petition which asks a clear question, and include each person's full name, postal address and dated signature.

Late applications are applications which are made when the land is on the market or where any action has been taken with a view to transfer of the land to be registered. In this case, you must provide:

- additional information that demonstrates why granting the registration is strongly in the public interest;
- evidence (as above) that shows at least 15% of the community is supportive; and
- details of any action that has been taken by community members towards the proposed project, prior to steps being taken to transfer the property. This might include minutes of meetings, community consultation, a community development plan, or any other activity that shows the community has been looking to deliver the project.

Gather and submit details of ownership

It is important the community body provides Scottish Ministers with the correct landowner 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.

Submit application

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 Community Interests in Land.

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

Please ensure that all maps provided fully comply with Schedule 1 of the 2015 Regulations and sections 2.5 and 3.5 of the application form (contained in Schedule 2 of the 2015 Regulations).

Scottish Ministers notify you and owner of the decision

The Registration Process/Timescales

Stage 1: A compliant application to register an interest in land is received by Ministers.

Stage 2: Scottish Ministers send a copy of the application to the landowner (and any creditors in a standard security), invite the landowner and any creditor to provide views on the application, and place a prohibition on any transfer of the land, or any action being taken with a view to transfer of the land.

Stage 3: The landowner (and creditor) has 21 days to reply 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 21 days to provide any comments. (The community body will not be invited to comment on comments received on a late application.)

Stage 5: Scottish Ministers have 63 days from receipt of a valid application to decide whether to register the interest or decline the interest (or 30 days for a late application).

Stage 6: The community body and landowner (and any creditor) will be notified of the Scottish Ministers' decision.

Stage 7: The community body, landowner, creditor or member of the community can appeal the Scottish Ministers' decision by lodging an appeal with the local Sheriff, within 28 days of the decision being made.

Stage 8: The registered interest will remain for five years.

Appeal decision

There is a process which allows the community body to appeal the decision. Please see the Scottish Government guidance for more details. The landowner can also appeal Ministers' decisions throughout the process.

Application registered

Please note for Late applications, proceed directly to "Valuer appointed"

Has 5 years lapsed since the registration was approved?

A Community Right to Buy registration is valid for 5 years, after which it expires. If you wish to extend the registration, you must submit an application to re-register. See the Scottish Government guidance or contact the Community Land Team for more information.

PHASE 1 - Initial enquiry

What is Community Right to Buy?

A Community Right to Buy (CRtB) is a pre-emptive right to buy land (or property) for communities throughout Scotland under Part 2 of the Land Reform (Scotland) Act 2003. It provides for those communities, who successfully register a community interest in land, to have the first option to buy when the registered land is offered for sale.

Community bodies can register an interest in any land or building, such as churches, pubs, estates, empty shops, woodland, fields and more. Community bodies can also register an interest in rights such as salmon fishing rights and certain mineral rights.

To be aware: CRtB is one of a number of avenues available to help communities buy land. It might not be the best option for your community body.

All options should be considered (e.g. working in partnership with the landowner, private negotiations with the landowner, leases, or buying the land on the open market).

What "Community Right to Buy" is not:

- It is not a forced sale of land.
- It is not a compulsory purchase of land.
- It is not intended to be used as a means to block or blight developments on land.
- It is not intended to be used to stop the landowner from developing their land if the community disagree with their plans.
- It is not intended to be used as a means to prevent or block other interested parties from purchasing land.
- A registration is not meant to preserve the status quo. The right to buy needs to show sustainable development benefits for the land and the community.

Refer to online Scottish Government guidance for more detail.

What are your outline ideas?

Any application to register a community interest in land must demonstrate that granting a registration is in the public interest. The community should identify a need that could be addressed through community ownership of the land or property you wish to own. At this stage, you should begin to consider how the purchase might be funded. Refer to HIE's Ten Steps to Community Ownership materials (www.hie.co.uk/ten-steps) for guidance on project development.

Would you like to have first option to buy should the property be sold?

The Community Right to Buy gives the community the first option to purchase property, should the owner wish to sell it.

Is the property categorised as "excluded"?

The only land in which an interest cannot be registered, called "excluded land", is land which consists of certain rights which are owned separately from the land, for example rights to gather mussels and oysters.

Is your community body compliant?

Your community must form a community body to apply to register an interest in land. This must either be a:

- company limited by guarantee;
- Scottish charitable incorporated organisation; or
- community benefit society.

Your community body must comply with the relevant requirements of Section 34 of the Act. You can work with the Scottish Government's Community Land Team, who have templates available.

The community body should:

- be controlled by members of the community;
- be defined geographically;
- meet the requirements for defining your community as set out in section 34(5) of the Act; and
- ensure its main purpose is consistent with furthering the achievement of sustainable development.

Send copy of your constitution to Scottish Government for advice

The Community Land Team can examine your group's governing document at an early stage and provide advice on what changes, if any, would need to be made in order to be considered compliant.

Compliance letter issued to you by Scottish Ministers

Once it has been established that your group is compliant, a letter will be issued to you to indicate that you may proceed with an application to register an interest in the land or property.

Rules of the Road

End use must be in public interest
Only open to compliant community bodies

Subject to approval by Scottish Ministers
Keep community engaged along the way
Exit at any stage

The registration process is subject to approval by Scottish Ministers. Your community body must comply with part 2 of Land Reform (Scotland) Act 2003.

PHASE 3 - Refining the details

Owner decides to transfer

When a landowner or creditor decides to transfer the registered land, they must notify Scottish Ministers and the community body that they propose to dispose of that land. This notification "activates" the right to buy and gives the community body the opportunity to buy the registered land in accordance with the Act. This does not prevent the community body from negotiating a sale without the CRtB having been activated.

Confirm wish to exercise Right to Buy

Scottish Ministers will write to you upon communication from the owner to ask you to confirm within 30 days whether you wish to proceed with the right to buy.

Valuer appointed

If your community body confirms that it intends to proceed with exercising its right to buy then Scottish Ministers will appoint an independent valuer to conduct a full market valuation. The valuer will have eight weeks to produce this report.

Independent ballot instructed

A ballot of all eligible voters within the community will be conducted with the results normally being returned to Scottish Ministers within 12 weeks of the appointment of the valuer. The ballot will be conducted by an independent balloter who is appointed by Scottish Ministers.

Submit Section 51B form and supporting documentation

The community body will also need to submit a Section 51B form (see Schedule 12 of the 2015 Regulations) and may supply a business plan, feasibility study etc to support the information provided in the form. The Section 51B form and the supporting evidence should be submitted on or before the date the ballot results are to be submitted by the balloter.

Ballot deemed invalid / Ballot deemed valid

If the ballot is deemed invalid or flawed, for example if every eligible voter has not been given the opportunity to vote, then a second ballot will have to be instructed.

Agree price and raise funding for purchase

The price to pay is one of the following:

- the amount agreed between the two parties;
- if no agreement is reached, the market value of the land as assessed by the valuer; or
- if the valuation is appealed, an amount to be determined by the Lands Tribunal for Scotland.

Capital funding is for any fixed costs such as purchase of the asset, construction or refurbishment. You may need further technical advice to make sure your project is sustainable. And you may wish to employ or contract with an individual to project manage the post-acquisition capital development phase.

Speak to your HIE adviser who should be able to help you identify potential funders.

PHASE 4 - Finalising purchase

Community Right to Buy approved

If the results of the community ballot show that:

- a sufficient proportion of the eligible voters have cast their vote, and
- a minimum of 50% votes are in favour the ballot is considered to be in favour.

Ministers then have 21 days from receipt of the ballot result to make their decision on whether the community body can proceed with its Right to Buy.

Submit formal offer to owner

Through the selling agent, put in a formal offer for the property based on the valuation price or the price agreed with the owner.

Instruct conveyancing

Conveyancing is the legal process of transferring title (ownership) of a property from a seller to a buyer. For detailed input refer to your own legal counsel.

Settlement and celebrate!

You may wish to hold a public event to celebrate the official community ownership of the land or building. You may also wish to issue a press release or speak to a journalist in advance about the story. Give everyone the opportunity to get involved and make sure you take lots of photographs.

It may seem like it has been a long haul but remember it's only the very start of your journey.