



SCOTTISH EXECUTIVE

Environment and Rural Affairs Department

Pentland House
47 Robb's Loan
Edinburgh EH14 1TY

Telephone: 0131-244 6192
Fax: 0131-244 6259
bob.perrett@scotland.gsi.gov.uk
<http://www.scotland.gov.uk>

16 December 2003

Dear Sir/Madam

**CONSULTATION ON LAND REFORM (SCOTLAND) ACT 2003
PART 3: CROFTING COMMUNITY RIGHT TO BUY
CONSULTATION ON DRAFT REGULATIONS**

On behalf of Scottish Ministers, we are inviting written responses to this consultation paper by 9 March 2004. The consultation includes draft Regulations which should be laid before the Parliament next year and are required to implement Part 3 of the Land Reform (Scotland) Act 2003.

These Regulations will have the following effect:

The Crofting Community Body Form of Application to Buy Croft Land and Notice of Minister's Decision (Scotland) Regulations 2003 will set out the form of application by a crofting community body to Scottish Ministers for consent to buy croft land and sporting interests (Section 73(5) of the Act). The Regulations also specifying the form of notice under section 82 of the Act which Scottish Ministers will give setting out their decision on an application to purchase.

The Crofting Community Right to Buy (Ballot) (Scotland) Regulations 2003 will set down: (1) requirements relating to the conduct of a ballot of the crofting community on a proposal by the related crofting community body to buy croft land and sporting interests (Section 75 (2) of the Act; and (2) the form of return by which the crofting community body will notify Scottish Ministers of the result of a ballot (Section 75 (4) of the Act).

The Crofting Community Right to Buy (Compensation) (Scotland) Order 2003 will set down the procedure by which landowners and others who have suffered losses through the operation of Part 3 of the Act may make claims for compensation (Section 89(4) of the Act).

The Crofting Community Right to Buy (Grant Towards Compensation Liability) (Scotland) Regulations 2003 will set down the procedure and form of application for a crofting community body seeking grant towards compensation payable to landowners and

others who have suffered losses through the operation of Part 3 of the Act (Section 90(6) of the Act).

Previous consultation and legislative process

Detailed proposals for a crofting community right to buy were first set out in February 2001 in the draft Land Reform (Scotland) Bill. Following consultation, amendments were made before the Bill was introduced in the Parliament in November 2001, where it was further amended at Stages 2 and 3 of the Parliamentary process. The Bill was passed by the Parliament on 23 January 2003 and received Royal Assent on 25 February 2003.

CONTENT OF REGULATIONS

The Crofting Community Body Form of Application to Buy Croft Land and Notice of Minister's Decision (Scotland) Regulations 2003

Section 73(5) of the Act requires prescription of a form on which crofting community bodies are able to apply to Scottish Ministers for consent to buy croft land and sporting interests. This form is necessary to ensure that all relevant detail is included in an application and time and effort are not wasted in the production of applications which leave questions outstanding. Ministers will not consider an application that is not in the prescribed form. Section 82 of the Act provides that Ministers must give written notice of their decision on an application to purchase and the Regulations also provide the prescribed form for this.

The Crofting Community Right to Buy (Ballot) (Scotland) Regulations 2003

Section 75(2) of the Act requires that ballots of the crofting community on a proposal by a crofting community to buy croft land shall be conducted as prescribed. The purpose here is to ensure that ballots are properly held and there is no doubt that the outcome reflects the views of the crofting community. Scottish Ministers will not accept ballots that are not conducted as prescribed in the Regulation.

Section 75(4) of the Act requires prescription of a form of return on which a crofting community body must notify Scottish Ministers of the outcome of a ballot. This form is necessary to ensure that Ministers are provided with the information which they require under the Act to be sure that the proposal to buy croft land has been approved by a majority of both the crofting community and of the tenants of crofts in the crofting township situated in or otherwise associated with the croft land in question. Notification not on the prescribed form of return will not be accepted by Ministers.

The Crofting Community Right to Buy (Compensation) (Scotland) Order 2003

Section 89(4) of the Act requires prescription of the procedure by which claims to compensation may be made by landowners and others who have suffered loss or expense as a result of the operation of Part 3 of the Act. These claims are made to the crofting community body which has successfully applied to buy the croft land in which the landowners and others had an interest. Where the application by the crofting community body is refused, Scottish Ministers will be liable to pay the amounts of loss or expense incurred by the landowner and others. (The crofting community body is not able to make such a claim.) The procedure must be prescribed in order to ensure provision of all the information necessary to show entitlement, loss and expense. No claim made by other means will be accepted.

The Crofting Community Right to Buy (Grant Towards Compensation Liability) (Scotland) Regulations 2003

Section 90(6) of the Act requires that a form and procedure be prescribed for crofting community bodies to apply to Scottish Ministers for grant towards the costs of compensation claimed from them under the Act. This form and procedure are necessary to ensure that Ministers have the information they require to determine whether and how much grant should be made towards the compensation claim made to a crofting community body. Any application not made as prescribed will be refused.

Next steps

Ministers and officials will give careful consideration to all comments before finalising the Regulations for submission to the Parliament. Guidance will also be developed and made available to the public prior to the Act and Regulations taking effect, which is now expected to be in April 2004. Please send your response to:

Name: Miss Jennifer Jones
Address: Land Use and Rural Policy Division
The Scottish Executive
Pentland House
47 Robb's Loan
Edinburgh EH 14 1TY
Phone: (0131) 244 6213
Fax: (0131) 244 6259
Email: jen.jones@scotland.gsi.gov.uk

We would be grateful if you could clearly indicate in your response which parts of the consultation paper you are responding to as this will aid our analysis of the responses received. If you have any queries please contact Miss Jones as above.

For future engagement:

If you wish to access this consultation online, go to <http://www.scotland.gov.uk/view/views.asp>. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is. If you prefer you can submit your response by e-mail to jen.jones@scotland.gsi.gov.uk

SE Consultations

A new email alert system for SE consultations ([SEconsult](#)) will be launched in the New Year. This system will allow stakeholder individuals and organisations to register and receive a weekly email containing details of all new SE consultations (including web links). SEconsult will complement, but in no way replace SE distribution lists, and is designed to allow stakeholders to 'keep an eye' on all SE consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We encourage you to register as soon as possible.

Access to consultation responses

We will make all responses available to the public in the Scottish Executive Library by 29 March 2004, unless confidentiality is requested. All responses not marked confidential will be checked for any potentially defamatory material before being logged in the library or placed on the website.

RESPONDEE INFORMATION FORM

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

Name:

Postal Address:

Consultation title:

1. Are you responding as: (please tick one box)
- | | | |
|---|--------------------------|--------------|
| (a) an individual | <input type="checkbox"/> | (go to 2a/b) |
| (b) on behalf of a group or organisation | <input type="checkbox"/> | (go to 2c) |

INDIVIDUALS:

2.a Do you agree to your response being made available to the public (in SE library and/or on SE website)?

Yes (go to 2b below)

No, not at all

2.b **Where *confidentiality is not requested***, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

2.c Your name and address as respondees *will be* made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

Yes

No

We will share your response internally with other SE policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future for consultation or research purposes?

Yes

No

The Scottish Executive Consultation Process

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body. Consultation exercises may involve seeking views in a number of different ways, such as public meetings, focus groups or questionnaire exercises.

Typically, Scottish Executive consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the area of consultation, and they are also placed on the Scottish Executive web site enabling a wider audience to access the paper and submit their responses. Copies of all the responses received to consultation exercises (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4552).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

If you have any comment about how this consultation exercise has been conducted, please send them to Miss Jones at the above address.

Yours faithfully

R I Perrett

DRAFT SCOTTISH STATUTORY INSTRUMENT

[2003 No[]]

CROFTING COMMUNITY RIGHT TO BUY

The Crofting Community Body Form of Application to Buy Croft Land and Notice of Minister's Decision (Scotland) Regulations 2003

Made

Laid before the Scottish Parliament

Coming into force

The Scottish Ministers in exercise of the powers conferred by section 73(5) and section 82(1) of the Land Reform (Scotland) Act 2003⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.-(1) These Regulations may be cited as the Crofting Community Body Form of Application to Buy Croft Land and Notice of Ministers' Decision (Scotland) Regulations 2003 and shall come into force on [] 2004.

(2) In these Regulations-

“the Act” means the Land Reform (Scotland) Act 2003;

“crofting community body” has the same meaning as in section 71 of the Act;

Application by crofting community body for consent to buy croft land

2. An application under section 73(2) of the Act by a crofting community body for consent to buy croft land shall be submitted to Ministers in the form in Schedule 1 to these Regulations.

⁽¹⁾ Asp 2003 c.2.

Notification of Ministers' decision on application

3. Ministers shall notify their decision under section 82 of the Act on an application by a crofting community body to buy croft land in the form of Schedule 2 to these Regulations.

A member of the Scottish Executive

St Andrew's House
Edinburgh
[Date]

SCHEDULE 1

APPLICATION FORM FOR CONSENT TO BUY CROFT LAND

Land Reform (Scotland) Act 2003

Please use black ink and capital letters

1. **Name of Crofting Community Body:**

Contact Title:

Contact Forename:

Contact Surname:

Contact Address:

Telephone Number:

Fax Number:

Email Address (if available):

Contact role in or with crofting community body

2. **Company details.**

A Crofting Community Body must be a Company Limited by Guarantee, registered in Scotland. A copy of the **Memorandum** and the **Articles of Association** of the Crofting Community Body should be enclosed.

Company Registration Number:

Address of Registered Office:

3. **Location of Crofting Community, as defined by the Crofting Community Body:**

Name, location and boundaries of the crofting community. Please also show the crofting community in relation to the land for which consent to purchase is sought and provide a suitable map or plan which identifies those individual households of members of the crofting community resident in the township of the crofting

community. This should be to an appropriate scale and derived from an Ordnance Survey map. Please indicate which of these members are crofters and identify their croft. (Complete on a separate sheet if necessary):

Please identify with names and current addresses those crofter members of the crofting community who reside outwith the township and give the distance at which they reside from the croft land which the crofting community body is applying for permission to purchase.

Please confirm that the membership of the crofting community as given by the crofting community body application in this application is that which was eligible to take part in the ballot notified to Scottish Ministers under section 75(4) of the Act.

4. Details of eligible croft land or sporting interests for which consent to purchase is sought (see Note 1)

Number and description of maps/drawings enclosed

County:

Postcode Details:

OS Grid

Reference Number:

Written description of eligible croft land, eligible additional land or sporting interests (complete on a separate sheet if necessary):

Does the person who owns the eligible croft land own the mineral rights associated with this land and do you wish to acquire these rights as part of this application. **YES/NO.**

Does the person who owns the eligible croft land own the salmon fishings on or contiguous with this land and do you wish to acquire these salmon fishings as part of this application. **YES/NO.**

Is this an application to acquire mineral rights or sporting interests on or salmon fishings on or contiguous to eligible croft land which is either the subject of another application or which has been acquired previously through the exercise of a crofting community right to buy under the provisions of this Act. **YES/NO (See Note 2).**

If the answer is YES please provide sufficient information to enable us to identify that other application or previous acquisition and to confirm that these mineral rights or sporting interests are on or those salmon fishings are on or contiguous to the relevant croft land (See Note 3).

If that relevant land was acquired previously through the exercise of a crofting community right to buy under the provisions of this Act please indicate the date on which that purchase was completed.

Please explain why you consider all of the land or sporting interests constitutes eligible croft land, eligible additional land or eligible sporting interests and why you believe that all of this land or these eligible sporting interests is owned by the landowner referred to in paragraph 6 below. (Relevant evidence to support this explanation should be attached with this application).

5. Does the land described in Answer 4 include any eligible additional land? **YES/NO**

If YES, give a detailed description of that land, and supply a map or plan to a suitable scale to show all relevant features, exceptions and boundaries clearly. The map should be derived from an Ordnance Survey map and should demonstrate the extent to which the additional land is contiguous to the eligible croft land.

6. **Details about the landowner (see Note 4).**

Title:

Name:

Address:

Postcode:

7. Do you wish to offer the sporting interests in the land to which this application relates for lease back to the current owner of the land in the event that this application is approved? **YES/NO**
8. State the proposed use, development and management of the subjects of the application (use separate sheet if necessary).

9. Will the proposed use, development or management interfere with any sewers, pipelines, watercourses, fences, dykes, ditches or other boundaries insofar as these connect with similar facilities on other land or also serve other land. **YES/NO**

If YES, give details.

Is it likely that the owner of the eligible croft land or any third party will require access over the land relating to this application to reach other property **YES/NO**

If YES, give details.

Is it likely that other land owned by the owner of the eligible croft land, or a business interest in that other land, will be injuriously affected if this application is granted **YES/NO**

If YES, give details.

10. State the extent to which the proposed use, development or management of the subjects of application would consist of or support the sustainable use or development of the subjects, including any land or sporting interests previously acquired by the crofting community body.

11. Is notification to Scottish Ministers of the results of the ballot held under section 75 of the Act enclosed with the application **YES/NO**

If NO, please indicate when it was sent to Scottish Ministers (see Note 5)

12. Provide an explanation as to why you consider that the approval of your application would be in the public interest.

- 13.** We apply to purchase the croft land specified at Question 4 above. We certify that the information supplied in this application is correct to the best of our knowledge and belief.

Title of Chairperson:

Name of Chairperson:

Signature:

Title of Secretary

Name of Secretary

(or other rep):

Signature:

Date of Application:

NOTES

- Note 1 The description should include all rights and interests in the subject of the application and the lines of all sewers, pipelines, fences, dykes etc.
- Note 2 An application to acquire mineral rights or sporting interests on or salmon fishings on or contiguous to eligible croft land which has been acquired previously through the exercise of a crofting community right to buy under the provisions of this Act must be made within 5 years of completion of the purchase of the land in the case of mineral rights and sporting interests and within 1 year of purchase of the land in the case of salmon fishings.
- Note 3 Maps and drawings must be provided, should be to a suitable scale to show all relevant features, exceptions and boundaries clearly and should be derived from an Ordnance Survey Map.
- Note 4 In the event that the current address of the landowner is not known the application should give the best and most recent information available to the crofting community body. This should be accompanied by an explanation of the reasons for doubting the accuracy of the address information supplied and the information about the address of the owner on the title to the land.”
- Note 5 An application must be made within the 6 month period following the date of the ballot. An application made outwith that period will be invalid.

SCHEDULE 2

**NOTICE UNDER SECTION 82 OF THE LAND REFORM (SCOTLAND) ACT 2003 OF
SCOTTISH MINISTERS DECISION ON AN APPLICATION TO PURCHASE BY A
CROFTING COMMUNITY BODY**

1. Name of crofting community body
2. Description of land or sporting interests which are the subject of the application
3. Decision on application and date from which it is effective

4. Any conditions attaching to consent if application is approved

Notes

1. A decision of the Scottish Ministers to consent to an application may be appealed by summary application to the Sheriff by the following persons:-
 - (a) any person who is a member of the crofting community defined in relation to the applicant crofting community in pursuance of section 71 of the Act;
 - (b) the owner of or, as the case may be, person entitled to the subjects of the application;
 - (c) any other person who has any interest in the land or sporting interests giving rise to a right which is legally enforceable by that person;
 - (d) the owners of all land contiguous to land which consists of the subjects of the application;
 - (e) the Crofters Commission; and
 - (f) any other person whom Scottish Ministers considered to have an interest in the application under section 73(8)(a) of the Act.
2. A decision of the Scottish Ministers to refuse an application may be appealed by summary application to the Sheriff by the applicant crofting community body.
3. A decision of the Scottish Ministers to consent to an application has the following consequences:-
 - (a) Scottish Ministers will within 7 days appoint a valuer of the croft land to be acquired;
 - (b) the owner of the croft land is required to make available to the crofting community body the title deeds of the land to be acquired within 6 weeks of the consent by Scottish Ministers;
 - (c) in the event that the application proposed that there could be a leaseback of the sporting interests to the owner, the current owner has notified Ministers that he wishes a lease back and Ministers have not been provided with a copy of an agreement on the terms and conditions of the lease then, within 7 days, Ministers will refer the question of what terms and conditions are appropriate to the Land Court so that the Court may determine these terms and conditions;
 - (d) any rights of pre-emption, redemption or reversion or deriving from any option to purchase are suspended as from the date of Ministers' approval and are revived either when the transfer of the land is completed, or if such a transfer is not completed because the crofting community body does not proceed with the purchase.
4.
 - (a) a copy of the decision of the Scottish Ministers has been lodged in the Register of Crofting Community Rights to Buy to be held by the Crofters Commission and is available for public inspection;
 - (b) a copy of the decision has been sent to:
 - (i) the owner of the land, or as the case may be, the person entitled to the sporting interest to which the application relates;
 - (ii) every other person whom Ministers invited to give views on the application;
 - (iii) in the case of a decision to consent to the application to the Keeper of the Registers of Scotland.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations specify the application form to be used by a crofting community body when it is seeking the consent of the Scottish Ministers to purchase eligible croft land (regulation 2 and Schedule 1). The Regulations also specify in Schedule 2 the form to be used by Scottish Ministers when giving notification of their decision on an application by a crofting community body. This form gives details of the rights of appeal available in relation to the decision of Scottish Ministers, and also sets out the consequences of their decision.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2003 No.

CROFTING COMMUNITY RIGHT TO BUY

The Crofting Community Right to Buy (Ballot) (Scotland) Regulations 2003

<i>Made</i>	2003
<i>Laid before the Scottish Parliament</i>	2003
<i>Coming into force</i>	2003

The Scottish Ministers in exercise of the powers conferred by sections 75(2) and (4) and 98(4) of the Land Reform (Scotland) Act 2003⁽²⁾, and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Crofting Community Right to Buy (Ballot) (Scotland) Regulations 2003 and shall come into force on .

(2) In these Regulations

“the Act” means the Land Reform (Scotland) Act 2003;

“crofting community body” means a body of the type defined in section 71 of the Act.

Conduct of Ballot

2. The ballot shall be a secret ballot and shall be conducted in a fair and reasonable manner.

3. The crofting community body shall ascertain-

(a) from the voters roll the number of eligible voters in the crofting community as defined for the purposes of section 71(1)(a) of the Act; and

(b) eligible voters 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.

4.—(1) Subject to regulation 5 below the date and place on which the ballot will be held shall be notified to all eligible voters, and there shall be a period of not less than 7 days from the date on which such intimation is made to the date on which the ballot is to be held.

⁽²⁾ asp 2003 c. .

(2) The notice referred to in paragraph (1) shall set forth the question on which the eligible voters shall vote.

5. If the community body wishes to hold a postal ballot each eligible voter shall be sent a ballot paper with the question on which the vote is to be taken and the date and time, being not less than 7 days from the date of posting, on which the paper must be returned. Each voter shall be provided with a stamped addressed envelope for returning the completed ballot paper.

Proxy Votes

6. In the event of any eligible voter being unable for good cause to exercise his right to vote either at the ballot or in the postal ballot held by virtue of regulations 4 and 5 respectively the crofting community body may permit a proxy to vote for that person.

Ballot results

7.—(1) Within 14 days of the holding of the ballot, or in the case of a postal ballot, within 14 days from the date specified for the return of the ballot papers, the crofting community body shall publish in a newspaper circulating in the vicinity of the community the information specified in section 75(4) of the Act.

(2) Within 21 days of the date specified in section 75(4) of the Act the crofting community body shall return to Scottish Ministers the form specified in the Schedule to these Regulations duly completed with the information specified in the said section 75(4).

(3) Scottish Ministers may within a period of 7 days after the return of the ballot result request from the crofting community body such additional information pertaining to the ballot as they may require, and the crofting community body shall supply such information within a further period of 7 days from the date of the request being made.

Retention of Ballot papers

8. The crofting community body shall retain all completed voting papers for a period of [2 years] after the date of the ballot, and these papers shall be available, on request, for inspection by members of the crofting community, Scottish Ministers or any other person with a right of appeal under sections 91 or 92 of the Act.

St Andrew's House,
Edinburgh

2003

SCHEDULE

**LAND REFORM (SCOTLAND) ACT 2003
BALLOT RETURN FORM**

1. Name of crofting community body.
2. Date of ballot.
3. Result of vote.
4. Number of persons eligible to vote.
5. Number of those persons who are tenants of crofts within the land which the crofting community body proposes to buy.
6. Number of persons who voted and the number of those persons who are such tenants.
7. Number of persons who voted in favour of the proposal to buy and the number of those persons who are such tenants.
8. Name, address and telephone number of crofting community body representative making the ballot return.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the requirements on a crofting community body which is holding a ballot under section 75 of the Land Reform (Scotland) Act 2003 on the question of whether to proceed with a land purchase.

Regulation 2 provides that there be a secret ballot and that it should be conducted in a fair and reasonable manner. Under regulation 3 the crofting community body is required to ascertain from the voters roll who is eligible to vote in the ballot, and in addition to identify tenants of crofts who are eligible voters. Regulations 4 and 5 give the crofting community body the option of holding an ordinary ballot or a postal ballot, and regulation 6 permits proxy votes in certain circumstances.

Regulation 7 requires the crofting community body to publish the result of the ballot in a newspaper circulating in the vicinity, and also to notify Scottish Ministers of the result and the other information specified in the form set out in the Schedule to the Regulations. Scottish Ministers are empowered to call for additional information pertaining to the ballot from the community body. Regulation 8 provides for the retention by the community body of the ballot papers for a period of 2 years, and also permits Scottish Ministers and specified persons to inspect them.

DRAFT SCOTTISH STATUTORY INSTRUMENT

2003 No.

CROFTING COMMUNITY RIGHT TO BUY

The Crofting Community Right to Buy (Compensation) (Scotland) Order 2003

<i>Made</i>	2003
<i>Laid before the Scottish Parliament</i>	2003
<i>Coming into force</i>	2003

The Scottish Ministers in exercise of the powers conferred by sections 89(4) and 98(4) of the Land Reform (Scotland) Act 2003⁽³⁾, and of all other powers enabling them in that behalf, hereby make the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Crofting Community Right to Buy (Compensation) (Scotland) Order 2003 and shall come into force on

(2) In this Order—

“the Act” means the Land Reform (Scotland) Act 2003;

“the claimant” means any of the persons specified in section 89(1) of the Act.

2. A claim for compensation made under section 89(1)(a), (b) or (c) of the Act shall be submitted to the crofting community body which is liable to pay the compensation at the registered office of that body.

3. A claim for compensation made under article 2 shall be submitted within 28 days of—

- (a) the final settlement date defined in section 87(2), or such later date as settlement of the purchase is made in terms of section 87(3) or (4);
- (b) the date of withdrawal by the crofting community body of its confirmation of its intention to proceed with the purchase under section 85; or
- (c) the date on which the crofting community body’s application is treated as withdrawn under section 87(5),

whichever date is the earlier.

⁽³⁾ asp 2003 c. .

4. A claim for compensation made under section 89(3) of the Act shall be submitted to the Scottish Ministers within 28 days from the date of notification under section 82 of the refusal by the Scottish Ministers to grant the crofting community body's application.

5. A claim for compensation may include all proper and reasonable expenses or losses incurred by the claimant under section 89(1), and such losses or expenses shall be fully vouched.

6. Where the claimant and the Scottish Ministers or the crofting community body, as the case may be, have been unable to agree the amount of compensation within 8 weeks from the date of submission of the claim, either party may apply to the Land Court to decide the amount of compensation payable in terms of section 89(5) of the Act.

A member of the Scottish Executive

St Andrew's House,
Edinburgh
[Date]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the procedure by and manner in which compensation for loss or expense may be claimed by any person, including an owner of land or sporting interests, under section 89 of the Land Reform (Scotland) Act (“the Act”). Such compensation is payable where loss or expense has been incurred (a) in complying with the requirements of the Act following the making of an application to purchase by the community body, (b) as a result of the withdrawal by the crofting community body of its confirmation of intention to proceed with the purchase, or its failure otherwise to complete the purchase after confirming its intention to do so, or (c) as a result of the failure of the crofting community body which made the application to complete the purchase. In these cases the compensation is payable by the crofting community body (article 2).

Where loss or expense has been incurred as a result of an application under section 73 of the Act being refused compensation for such loss or expense is payable by the Scottish Ministers (article 4).

Articles 3 and 4 provide for the time limits within which a claim for compensation must be made. Article 5 sets out the elements which may be included in the claim, and article 6 provides that if compensation is not agreed within 8 weeks from the date of submission of the claim either party may refer the question to the Land Court for resolution.

DRAFT SCOTTISH STATUTORY INSTRUMENT

2003 No.

CROFTING COMMUNITY RIGHT TO BUY

The Crofting Community Right to Buy (Grant Towards Compensation Liability) (Scotland) Regulations 2003

<i>Made</i>	2003
<i>Laid before the Scottish Parliament</i>	2003
<i>Coming into force</i>	2003

The Scottish Ministers in exercise of the powers conferred by sections 90(6) and 98(4) of the Land Reform (Scotland) Act 2003⁽⁴⁾, and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Crofting Community Right to Buy (Grant Towards Compensation Liability) (Scotland) Order 2003 and shall come into force on

(2) In these Regulations—

“the Act” means the Land Reform (Scotland) Act 2003;

“the claimant” means any of the persons specified in section 89(1) of the Act;

“Ministers” means the Scottish Ministers.

2. An application for a grant made under section 90 of the Act shall be submitted to Ministers with the information and documents specified in the Schedule to these Regulations, by the crofting community body which is liable to pay compensation under section 89(1) of the Act.

3. An application for a grant under regulation 2 shall be submitted within 21 days of—

(a) the date on which the crofting community body and the claimant agreed the amount of compensation payable; or

(b) the date on which the Land Court determined under section 89(5) of the Act the amount of compensation payable,

whichever date is the earlier.

⁽⁴⁾ asp 2003 c.

4. Ministers shall issue their decision on an application for a grant under section 90 of the Act within 21 days of the date of its receipt.

A member of the Scottish Executive

St Andrew's House,
Edinburgh
[Date]



SCHEDULE

1. An application for a grant shall include the following information:–
 - (a) the name of the Crofting Community Body (“CCB”) and its company number;
 - (b) the names and addresses of the Chairman, Secretary and Treasurer of the CCB;
 - (c) the name and address of the person(s) seeking compensation from the CCB;
 - (d) details of the compensation sought from the CCB;
 - (e) details of the amount of grant sought by the CCB;
 - (f) details of the account into which any grant is to be paid.

2. An application for a grant shall be accompanied by the following documents:–
 - (a) a statement signed by the Chairman and Secretary of the CCB certifying the details given in the application and undertaking that grant provided will be used only in respect of compensation sought under section 86(1);
 - (b) if the purchase was not completed, by a statement signed by the Chairman and Secretary of the CCB advising the reasons for this;
 - (c) a financial statement prepared by a professional accountant certifying details of the finances of the CCB and signed by that accountant and the Treasurer of the CCB;
 - (d) copies of relevant correspondence between the CCB and the person(s) seeking compensation.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the procedure to be followed by a crofting community body when it wishes to apply to Scottish Ministers for a grant under section 90 of the Land Reform (Scotland) Act 2003 (“the Act”). Such a grant may be applied for when a crofting community body is liable to pay compensation under section 89 of the Act to any person, including the owner, or former owner of land or sporting interests, and that body has been unable to obtain enough money to pay, or to pay in full, the compensation. If the Scottish Ministers consider that the crofting community body has taken all reasonable steps to raise money from other sources and have failed to obtain sufficient money, and that it is in the public interest to pay a grant, they may do so.

Regulation 2 provides that it is the crofting community body which must apply to the Scottish Ministers for a grant, and regulation 3 prescribes the time limits for making an application. Regulation 3 provides that the Scottish Ministers must make a decision on an application for a grant within 21 days of its receipt.

The Schedule to the Regulations specifies the information which must be supplied by the crofting community body when