



# Consultation on the Community Empowerment (Scotland) Bill

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The Scottish Government  
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EH1 3DG

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The Community Empowerment (Scotland) Bill stems from our firm belief that Scotland's greatest asset is our people. Whether making a difference as part of local community organisations or as volunteers, working to deliver first class public services or innovating in the private sector, it is Scotland's people who will deliver a more successful future for the nation.

This Government believes that the people who live and work in Scotland are best placed to make decisions about our future – the essence of self-determination for the nation.

Our belief in local self-determination, through a strong Scottish Parliament, strong local authorities and strong communities, is the key principle which underpins the proposals in this consultation document.

At its heart, community empowerment is about communities taking their own decisions about their futures. It's about communities choosing to grow and become stronger, and to improve things for their families, friends and neighbours in ways that make sense to them. It is a means for communities to take their own actions with access to all the resources available to them to develop their local economies, environments and cultures. This Bill will give people in communities, and those supporting them in the public sector, a range of new ways to help deliver a better Scotland.

The Bill will build on the principles Scotland established in our world leading community right to buy legislation, making it fit for the future and for all communities in Scotland. It will make it more straightforward for communities to take on public sector land and buildings, for the first time giving local groups the initial say in which land and buildings they are interested in. And it will provide Scotland's community councils with a new statutory role in relation to the common good, recognising their important role as voices for local communities. It will give communities a voice in the services the public sector delivers, recognising the place of local democracy, and drive further integration and improved partnership working in public services, which can be a critical enabler of community empowerment.

And just as we believe the Scottish Parliament should have all the powers and levers it needs to serve the nation, so we believe in championing strong local democracy. We understand the importance to people's lives of local decision-making. That is why I am pleased to chair the Island Areas Ministerial Working Group, and we welcome COSLA's establishment of its Commission on Strengthening Local Democracy.

The topics included in this Bill have been shaped by what we heard in our exploratory consultation in Autumn 2012. I look forward to hearing your views on these more detailed proposals.

A handwritten signature in black ink, appearing to read 'Derek Mackay', written in a cursive style.

**DEREK MACKAY**  
Minister for Local Government and Planning

## Chapter 1 – Introduction

1. The Scottish Government recognises that empowering communities and reforming public services are key to achieving improved outcomes for all of Scotland. The Community Empowerment (Scotland) Bill is intended to provide a legislative underpinning that will support and drive forward these key areas of policy.
2. The Government's Programme for Scotland 2013-14, launched by the First Minister in September, placed community empowerment and public service reform at the heart of the Government's agenda.
3. It made clear that the Scottish Government strongly values community led action. Scotland is enriched by a wealth of volunteers and community groups such as development trusts, housing associations and community councils, all of whom contribute a great deal to their local areas. Scottish Ministers recognise the need to do more to enable them to achieve their goals and those of the communities in which they live and work, and to work in partnership with the public, private and third sectors to deliver a range of improved social, economic and environmental benefits for the local area.
4. Ownership of land and buildings is a key element in empowering communities. Over the past ten years half a million acres of land in rural areas have been transferred to community ownership. We want to continue to expand the opportunities this brings, and the First Minister has announced a target of one million acres in community land ownership by 2020.
5. The Programme for Scotland also made clear that Ministers are proud of Scotland's public services, and believe the people of Scotland place a high value on them too, recognising the role they play in creating a stronger economy and a fairer society. We believe that further improvements can be achieved by encouraging greater integration and more effective partnership working.
6. Ministers also place a great deal of importance on their relationship with Local Government. That relationship is founded on a respect for local democracy and a commitment, set out in the First Minister's Lerwick declaration, to self-determination, subsidiarity and local decision-making. This underpins the Scottish Government's approach to encouraging all of Scotland's communities to flourish and prosper.
7. We already have a strong track record on these issues, and this Bill will seek to build on much of the good work already underway. For example, the land fund is supporting community ownership with access to finance, local authorities are engaging with communities and supporting them to take on assets. Councils are also working with others in the public sector to drive reform across a range of areas. And there are many examples of strong partnership working between sectors across the country. We have also pioneered the use of an outcomes-focused approach at both national and local levels, which we propose to further embed through this Bill.
8. These, then, are the cornerstones on which the proposals for this Bill are based: empowering our communities, making the most of the talents that exist in our communities; delivering high quality and improving public services; supporting strong

local democracy and local decision-making; and all of it focused on improving outcomes for individuals and communities across Scotland.

9. From the outset of discussions about this Bill, and through our exploratory consultation, it was clear that people saw opportunities where focused changes to legislation could build on existing good practice and provide more opportunities to achieve their goals, in various policy areas. As a result this consultation covers a wide range of topics, each of which can play an important part in improving public services and enhancing our communities.

10. The proposals in the Bill will make it easier for communities to take ownership or make more effective use of land and buildings. They will increase transparency and strengthen the voice of communities in how common good assets are used and how services are delivered. They will give local authorities more powers to take actions which support communities, and will encourage approaches in which partnership working combines the physical, financial and human assets of the public sector and communities, working more effectively together to deliver a better Scotland.

11. Of course, legislation in itself does not produce empowered communities. In 2008, the Scottish Government and COSLA announced a joint statement of commitment to community empowerment, followed up by the Community Empowerment Action Plan in 2009. We have already taken action and are continuing on that path to make more communities more empowered across the country.

- We recognise the need to build capacity in communities to help them take advantage of the opportunities available. We are working with key partners to implement the Strategic Guidance on Community Learning and Development, and have introduced the Requirements for Community Learning and Development (Scotland) Regulations to underpin the auditing of needs, strengths and opportunities with learners and communities.
- We also fund the Development Trusts Association Scotland's Community Ownership Support Service, which provides advice and help to communities to take on assets of their own.
- The Scottish Land Fund, worth £9m over 2012-2016, helps rural communities to purchase assets which will help them achieve economic, social and environmental benefits.
- The People and Communities Fund provides at least £6m per annum for projects identified by communities as helping them achieve their own outcomes. We have recently announced £1m further funding for this scheme generated through an innovative Charitable Bond.
- We are helping community bodies to access information about the funding schemes available to them through the Community Funds Gateway<sup>1</sup> on our website, and will work further to simplify this landscape and reduce the number of different schemes. These currently include, for example, the Climate Challenge Fund, which has supported 394 communities from Scotland to deliver carbon emissions reductions, the Community Broadband Start-up Fund, and the Volunteering Support Fund, which supports third

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<sup>1</sup> <http://www.scotland.gov.uk/Topics/Built-Environment/regeneration/communityfunds>

sector organisations to create new volunteering projects; increase the diversity of their volunteers; and improve opportunities, skills and personal development through volunteering.

- Our guidance on new Single Outcome Agreements requires Community Planning Partnerships to engage with communities and to build their capacity to engage and deliver for themselves.
- We are investing £8m this year for Third Sector Interfaces to support the third sector in each local authority area and facilitate engagement with Community Planning Partnerships on the design and delivery of local services.

### **How to respond**

We are inviting written responses to this consultation by **24 January 2014**. For details of how to respond, please see Annex A.

## Chapter 2 - Background

12. The SNP's 2011 manifesto proposed a Community Empowerment Bill which would "give local people a greater say in their area, enabling them to deal more easily with derelict and eyesore properties and take over underused or unused public buildings for the benefit of their community". The Christie Commission report, published in June 2011, also recommended that the Bill should "promote significantly improved community participation in the design and delivery of services"

13. In order that the Scottish Government could listen to as a wide a range of people as possible in developing the Bill, an exploratory consultation was held between June and September 2012. During that time Scottish Government officials took part in a series of conferences, road-shows and local meetings with a range of people from the public and voluntary sectors and with community volunteers. 447 responses to the consultation were received from a mix of individuals, community and voluntary groups, community councils, and the public and private sectors. An independent analysis of the responses was published in January 2013. That can be accessed on the Scottish Government website at <http://www.scotland.gov.uk/Topics/People/engage>

14. There was also a positive and helpful debate on the proposed Bill on 12 September 2012, in advance of the launch of the initial consultation. The official report of that debate can be found at <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=7908&mode=pdf>

15. The exploratory consultation covered a large number of actions which, it had been suggested, could act as a catalyst for community enterprise, community development and public service improvement. What appears in this draft Bill is a result of the consultation analysis, further conversations with stakeholders from the public, private and community and voluntary sectors, and Ministerial discussions. The draft also includes some new areas that were not in the original consultation but have emerged from other discussions with stakeholders and review processes, for example, improving the existing community right to buy in the Land Reform Scotland Act 2003, and the statutory underpinning of Scotland Performs, the Scottish Government's national performance framework.

16. The proposals in this consultation paper are set out in three groups:

- Chapter 3 covers proposals which have already been subject to some consultation, and on which draft legislation is now provided for comment. The draft Bill is at Annex C.
- Chapter 4 sets out detailed policy questions on issues which have been discussed in more general terms elsewhere, but have not yet reached the stage of draft legislation.
- Chapter 5 proposes some new policy ideas on wider issues about the organisation of central and local government and how we express our ambitions for creating a successful Scotland.

17. This consultation document continues our determination to involve as wide a range of people as possible in shaping legislation that will make a lasting difference. Officials will again be attending events and visiting groups with an interest to help them understand the proposals. Visit the website at <http://www.scotland.gov.uk/Topics/People/engage> or follow us on Twitter, [@CommEmpower](https://twitter.com/CommEmpower), to keep up with what's happening.

### **How to respond**

**Please respond in writing** to ensure your detailed views are taken into account. The closing date for responses is **24 January 2014**. For details of how to respond, please see Annex A.

## Chapter 3 - Proposals with draft legislation

18. Annex C contains a draft Bill covering the policy areas which are described in this Chapter.

**It is important that you read the draft Bill provisions before you answer the questions in this chapter. This is because we are interested in your views on the detailed wording of the draft Bill for each issue, and whether you think it will work in practice.**

19. “Provision” means a piece of a Bill or an Act. The Bill is divided into Parts, and has two Schedules (like annexes). The individual paragraphs are known as “sections”, with sub-sections. “Provision” means any piece of the Bill, however small or large.

20. The Scottish Government tries to ensure legislation is written as clearly as possible, so that people affected by it can understand it. However, it does have to be very precise so that people and the courts know exactly what is required or allowed, and it follows a particular structure. Try not to be put off by the layout or formal style, and just work through what the draft provisions say.

21. Some words have specific meanings when they are used in legislation which might not be immediately obvious. For example, “land” includes buildings. There is a glossary in Annex B of some words in the draft legislation to help with this. You should also carefully check the meanings of particular terms set out in each Part of the draft Bill.

22. In various places the draft Bill says that Scottish Ministers may make Regulations or Orders about things. These are other types of legislation which can be made more quickly than changing an Act, so they are used to deal with issues that need a lot of technical detail, or may change often. There will be further consultation before any Regulations or Orders are made, and they are also scrutinised by Parliament.

23. Part 5 of the draft Bill contains technical provisions for arrangements to make the Bill work in practice. These are standard for all Bills and we are not seeking comments on them.

24. The rest of this chapter summarises the policy behind Parts 1 to 4 of the draft Bill and asks for your views on the draft.

### **3.1 Community Right to Request Rights in Relation to Property**

25. There is an increasing evidence base which shows that in the right circumstances community ownership or control of assets like land and buildings can have positive economic, social and environmental benefits. In these cases assets are often owned or managed by community groups like Development Trusts or Community Based Housing Associations. These organisations are often charitable companies limited by guarantee with a majority of local people on the board, but can take other forms.

26. This ownership of assets can be the most important factor for some communities in increasing their empowerment and control over their own futures. The public sector can be a useful source of assets which can benefit from being transferred into community ownership or management.

#### Draft Bill: Part 1 “Asset Transfer Requests”

27. These provisions are designed to give community bodies a more proactive role in identifying public sector land and buildings that they would be interested in owning or using. The community body will be able to submit a request setting out its plans for the property. The public sector body (“the authority”) will need to respond to any such requests in a transparent and rational way, basing its decision on an assessment of the best public benefit which can be gained from a particular ownership or use of an asset.

28. The draft provisions set out the information to be included in an asset transfer request, the issues the authority must take into consideration in dealing with the request, and the process to be followed if the authority agrees to the request. There are also provisions to prevent repeated requests for the same asset, to deal with restrictions which may apply if the asset is leased to the authority, and to prevent the authority disposing of the asset to anyone else while a request is in progress.

29. The draft defines community bodies in a way which seeks to reflect good practice in community asset ownership and provides a list of public sector bodies which would be covered by the legislation (Schedule 1, Annex C page 21). These are chosen on the basis that they are bodies who are likely to hold assets that communities may be interested in.

30. Community bodies will be able to appeal to Scottish Ministers against decisions made by public bodies other than local authorities. Local authorities are excluded from this appeals mechanism because they are democratically accountable to the electorate. It is also not possible to appeal to Scottish Ministers against decisions made by them or their officials. However, we are interested in how an appeal or review process for the decisions of both local authorities and Scottish Ministers might work, and we are inviting views on what form they might take.

## Consultation Questions

**Please read Part 1 of the draft Bill (Annex C, pages 1 to 9) before you answer these questions:**

- Q1 Do you agree with the definition of community body at section 1? Do you have any changes to suggest?
- Q2 Do you agree with the list of public bodies to be covered in this Part at Schedule 1 (Annex C page 21)? What other bodies should be added, or removed?
- Q3 What do you think would be reasonable timescales for dealing with requests, making an offer and concluding a contract, in relation to sections 5(6), 6(2)(c) and 6(6)?
- Q4 Do you agree that community bodies should have a right of appeal to Ministers as set out in section 8? Are there other appeal or review procedures that you feel would be more appropriate?
- Q5 What form of appeal or review processes would be appropriate in relation to decisions made by local authorities and by Scottish Ministers?
- Q6 Do you have any other comments about the wording of the draft provisions?
- Q7 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

## **3.2 Community Right to Request to Participate in Processes to Improve Outcomes of Service Delivery**

31. There is a strong history of the public sector engaging with communities across Scotland. In particular, local authorities have used a wide variety of engagement techniques over the years and have been in the forefront of championing tools like the National Standards for Community Engagement. However, the Christie Commission on the Future of Public Service Delivery recommended that this Bill should seek to strengthen communities' voices in shaping the services which affect them.

32. In deciding to seek to legislate in this area, the Scottish Government recognises that any new measures must complement existing local democratic processes.

33. Across the world, a growing number of more participatory democratic processes have been developed to allow citizens to engage in decision making processes related to various levels of the State. Evidence shows that involving people more regularly and more effectively in the decisions that affect them leads to better outcomes and a greater sense of control for communities.

34. Later in this consultation document, we ask for views on policy proposals in relation to engaging communities in Community Planning. That could place new duties on Community Planning Partnerships which will help to cement good practice in community engagement when the process is initiated by public bodies.

35. This part of the Bill aims to empower communities by giving them the lead in starting discussions with the public sector on their own terms about the things that matter to them. We are aiming to do this across a wide range of public services, as communities have interests in the broadest range of outcomes. Strengthening participatory democracy in this way will increase opportunities for communities to be directly involved in improving public services by promoting dialogue between the public sector and communities, rather than just consultation, in order to:

- ensure communities have a say in the issues that matter to them
- improve transparency in public sector decision making
- provide opportunities to make the most of the knowledge and talent that lies in communities, and
- foster positive relationships between community bodies and the public sector.

### Draft Bill: Part 2 "Public Service Delivery"

36. The aims of these provisions are to strengthen 'bottom up' processes by supporting local community bodies to be more proactive in saying which issues they want to have their voices heard on, how they want things to change for the better, and to promote the part they themselves can play in delivering that change, for example, by delivering some services themselves.

37. Where a community body believes it could help to improve the outcome of a service, it will be able to make a request to the public body or bodies that deliver that service, asking to take part in a process to improve that outcome. The community

body will need to explain and provide evidence of how it could contribute to improvement. The public body must agree to that request unless there are reasonable grounds for refusing it, and must give reasons for any decision to refuse a request. The provisions set out what information must be contained in requests and what issues the public body must consider in reaching its decision.

38. If there is already a relevant outcome improvement process in place, the public body must explain how the community body can take part in that process. Otherwise it must establish an improvement process for the outcome requested.

39. The draft provisions also require public bodies to publish a report of any process of dialogue which would take place under these provisions which would explain how community bodies' views were taken into account in any decisions about how to improve outcomes.

40. "Community body" is defined differently in this part than in Part 1 of the draft Bill, because the requirements of a body seeking to take ownership or management of an asset are more extensive than for a body just seeking dialogue with a service provider. The list of public bodies to which Part 2 applies, set out in Schedule 2 (Annex C page 21) is also different, because it includes only those which provide services.

### Consultation Questions

**Please read Part 2 of the draft Bill (Annex C pages 9 to 14) before you answer these questions:**

Q8 Do you agree with the definition of community body at section 11? Do you have any changes to suggest?

Q9 Do you agree with the list of public bodies to be covered in this Part at Schedule 2 (Annex C page 21)? What other bodies should be added, or removed?

Q10 Do you agree with the description at section 13 of what a participation request by a community body to a public service authority should cover? Is there anything you would add or remove?

Q11 Do you agree with the criteria at section 15 that a public service authority should use when deciding whether to agree or refuse a participation request? Are there any other criteria that should be considered?

Q12 Do you have any other comments about the wording of the draft provisions?

Q13 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

### 3.3 Increasing Transparency about Common Good

41. The existence of the common good in Scotland, as a type of asset with strong historical and emotional ties to local communities, is an important part of the community landscape in many places across the country. Assets held for the common good are owned by local authorities, having been passed down from former burghs under successive rounds of local government re-organisation. CIPFA's guidance on Accounting for the Common Good<sup>2</sup> provides a useful description of how common good arises.

42. Audit Scotland stated that at 31 March 2011, councils managed common good assets valued at £219 million<sup>3</sup>. While this is less than 1% of the estimated total value of council owned property assets (then valued at £35 billion), many common good assets have a strong practical and emotional value to local residents. They have to be accounted for in a particular way and often have particular rules associated with their disposal. There is also a long history of common law decisions in relation to common good.

43. It is the special importance of the common good to communities, and the fact it is treated in many ways as different from other local authority owned assets, that underpins our policy goal and our proposed provisions.

44. While local authorities should already have details of their common good assets, in line with accounting good practice, this is not always readily available to the public, and there may be disputes about what is included. Our policy goal is to increase transparency about the existence, use and disposal of common good assets, and to increase community involvement in decisions taken about their identification, use and disposal.

#### Draft Bill: Part 3 "Common Good Property"

45. Our draft provisions place a new statutory duty on local authorities to establish and maintain a register of all property held by them for the common good. They also place a requirement on local authorities to consult with community councils and other community bodies when establishing the register.

46. Further provisions require local authorities to consult community councils and other community bodies about the disposal and use of common good assets.

47. We have not sought to define common good in these draft provisions. We are aware that some people think that this would bring greater clarity to identifying common good assets. However, at this stage our view is that there are significant difficulties in framing a satisfactory definition. The risk is that such a statutory definition might not cover all existing assets which are currently considered to be part of the common good (and might cover things which are not currently included). As

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<sup>2</sup> [http://www.cipfa.org/-/media/files/regions/scotland/lasaac/3h%20lasaac%20accounting\\_for\\_the\\_common\\_good\\_final\\_version.pdf](http://www.cipfa.org/-/media/files/regions/scotland/lasaac/3h%20lasaac%20accounting_for_the_common_good_final_version.pdf)

<sup>3</sup> Audit Scotland, *An Overview of Local Government in Scotland: Challenges and Change in 2012* (2012)

such, an attempt to create a new, statutory definition of common good could inadvertently lead to communities losing common good assets.

### Consultation Questions

**Please read Part 3 of the draft Bill (Annex C pages 14 to 16) before you answer this question:**

Q14 Do you think the draft provisions will meet our goal to increase transparency about the existence, use and disposal of common good assets and to increase community involvement in decisions taken about their identification, use and disposal? What other measures would help to achieve that?

### 3.4 Defective and Dangerous Buildings – Recovery of Expenses

48. Communities can be affected by buildings which become dangerous or defective, for example by falling into disrepair. Local authorities have powers under the Building (Scotland) Act 2003<sup>4</sup> to deal with such buildings. They have a mandatory duty to take action to deal with buildings which are dangerous; for those which are “defective” they can serve a notice on the owner requiring them to take action, and if the owner does not comply the local authority may do the work. In each case the local authority is entitled to recover the costs of that action from the owner of the building.

49. Under the Building (Scotland) Act 2003, the local authority can only recover its costs through normal debt recovery methods. This can make it difficult to recover costs, which in turn discourages local authorities from using their powers to ensure the local built environment is maintained. Previous building legislation applying to dangerous buildings and other building regulation contraventions, and other legislation applying to housing and historic buildings, provides for a charging order or notice of liability for expenses to be registered against the property in the appropriate property register – in practice this enables the debt to be paid when the property is sold, otherwise the new owner becomes liable. Consultation and research has supported the introduction of such a mechanism to assist local authorities in recovering their costs of carrying out work on dangerous or defective buildings.

50. It is also proposed that the same improvements to the powers to recover costs should apply to buildings regulations compliance, continuing requirement enforcement notices, and building warrant enforcement notices, under sections 25, 26 and 27 of the Building (Scotland) Act 2003.

#### Draft Bill: Part 4 “Liability for expenses under Building (Scotland) Act 2003”

51. Part 4 of the draft Bill inserts new sections into the Building (Scotland) Act 2003 which allow for a “notice of liability for expenses” to be registered in the appropriate property register in relation to a building on which work has been done. Where such a notice is registered, if the building is sold, the previous owner and the new owner become severally liable for the debt; in other words, it can be recovered from either of them.

52. In practice, a potential buyer (new owner) will want to ensure that the debt is paid and will negotiate the purchase price accordingly. If the new owner pays the expenses, they may recover that amount from the former owner (seller), if the former owner is liable.

53. The provisions set out the procedures to be followed and the administrative expenses and interest which can be charged.

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<sup>4</sup> <http://www.legislation.gov.uk/asp/2003/8/contents>

Consultation questions

**Please read Part 4 of the draft Bill (Annex C pages 17 to 19) before you answer these questions:**

- Q15 Do you agree that the cost recovery powers in relation to dangerous and defective buildings should be improved as set out in the draft Bill?
- Q16 Do you agree that the same improvements should apply to sections 25, 26 and 27 of the Building (Scotland) Act 2003?

## Chapter 4 - Detailed Policy Proposals

### 4.1 Improve and extend Community Right to Buy

54. The Scottish Government recognises the importance of community ownership of land in empowering the people of Scotland. We are ambitious for the future of the community ownership of land and in June 2013 the First Minister announced a target of one million acres in community land ownership by 2020. Community land ownership brings opportunities; it brings empowerment; it brings about the recognition that Scotland's people are the country's richest asset, and that they are best placed to make decisions about their futures.

55. The Scottish Government has four priorities for taking forward the community right to buy as part of the agenda for land reform in Scotland:

- The extension of the community right to buy to all of Scotland, including urban areas and settlements with a population of 10,000 or more, which are currently excluded from the provisions, where Scottish Government is satisfied that it is in the public interest.
- Considering whether there should be a compulsory right to buy for communities, and the circumstances in which it could be used.
- The streamlining of the legislation after the first decade of its use.
- Improving the process of the community right to buy in order to remove barriers and increase opportunities.

56. These priorities are driven by the observation that community ownership of land has had a transformational impact. It has increased community confidence, and allowed communities to realise their aspirations and control their destinies. It can create strong vibrant and flourishing communities where people want to live. It has helped to deliver sustainable development and also sustainable communities.

57. Community ownership of land in Scotland has demonstrated clear benefits: increased populations and school numbers; the development of private enterprise; the development of community enterprise; investment in land and assets; affordable housing for rent and purchase; infrastructure developments; renewable energy schemes; and on-going and improved estate management.

58. In the last ten years, following the passage of the Land Reform (Scotland) Act 2003 by the Scottish Parliament and the introduction of the community right to buy, the community land movement has gone from strength to strength. Over the last ten years half a million acres of land in rural areas have transferred into community ownership. Continued improvements and support through the £9m Scottish Land Fund (2012-16) has provided a further impetus. Land Fund Advisers, appointed to each applicant, support and encourage communities to become empowered in preparing their applications before considering those and, ultimately, granting the funding awards which enable communities to successfully purchase land.

59. Scotland has nearly 10 years of experience of working with the community right to buy (the provisions came into effect on 14 June 2004). Learning and reflecting on the evolution of the community land movement is important, as is

evaluation of the tools that the Scottish Government uses to facilitate land ownership. We have learned a lot about how the provisions work in practice, but also how they can be improved: we believe that the Community Right to Buy can be streamlined and made easier and more flexible for communities to navigate, while at the same time continuing to strike a fair balance between the rights of landowners and communities, reflecting the lessons of the last ten years. This, we believe, will be important in bringing more land throughout Scotland into community ownership and, thereby, enabling communities to fulfil their aspirations.

60. At present the community right to buy in Part 2 of the Land Reform (Scotland) Act 2003 provides the opportunity for community bodies representing rural areas in Scotland with less than 10,000 head of population to register an interest in land and buy that registered land once it is offered for sale. It provides communities with a pre-emptive right to buy the land in which they have registered a community interest.

61. Further information on the community right to buy is available at <http://www.scotland.gov.uk/Topics/farmingrural/Rural/rural-land/right-to-buy/Community>

62. The questions in this consultation draw on the experiences of those using the legislation, extensive post-legislative scrutiny of the 2003 Act, the submissions made to the Land Reform Review Group and the interim views of that group.

63. The existing legislation is underpinned by three key issues which are also fundamental to any proposed changes and should be considered in responding to this consultation:

- The need to consider the rights of both the community body and the landowner, and the need to strike a fair balance between them.
- The public interest in the application and the proposals for the land.
- Sustainable development of the plans for the land to be brought into community ownership.

64. These requirements reflect the need for any measures to take account of the requirements of Article 1 of Protocol 1 to the European Convention on Human Rights (ECHR) (protection of property). In short any interference with existing rights of property must be justified by reference to a legitimate aim; the means used must be proportionate to that aim, and in particular there must be a fair balance between the general community interest and the protection of the individual's fundamental rights.

#### Detailed proposals

65. This chapter makes detailed references to the existing legislation in the Land Reform (Scotland) Act 2003 and Regulations and Orders made under that Act. These are all available on the website [www.legislation.gov.uk](http://www.legislation.gov.uk). Direct links to the relevant items are given in the following paragraphs. References to "section x" are to sections of the Land Reform (Scotland) Act 2003.

Consultation questions are included within each section.

## Extension of the community right to buy

66. The exploratory consultation on the Community Empowerment and Renewal Bill which took place from June to September 2012 asked questions about introducing an urban community right to buy. Further information is available at <http://www.scotland.gov.uk/Topics/People/engage/cer>.

67. The analysis of responses showed that “the vast majority of respondents supported the proposal to introduce a community right to buy in urban areas, with much smaller numbers expressing more neutral views or against the proposal.”. The analysis also showed that respondents felt that a right to buy should operate in the same way in urban and rural Scotland, but that the existing rural right to buy should be improved before doing that.

Q17 The Scottish Government proposes to extend right to buy to communities in all parts of Scotland, where the Scottish Government is satisfied that it is in the public interest. Do you agree with this proposal, and are there any additional measures that would help our proposals for a streamlined community right to buy to apply across Scotland?

68. In answering this question you may wish to think about particular issues such as the definition of “community”; the level of support to register a community interest in land; the registration of land which unexpectedly comes on the market; the timescales to complete the right to buy; the ballot (including arrangements for it and level of support); the right to buy “application”; option agreements and the right to buy. There may be other issues which you want to consider in your response. Specific proposals relating to these issues are noted throughout this part of the consultation paper.

### Scope of “registrable land”

69. Land in which a community interest can be registered is called “registrable land” while land in which a community interest cannot be registered is called “excluded land” (section 33). “Excluded land” is set out in law in the Community Right to Buy (Definition of Excluded Land) (Scotland) Order 2009). In deciding whether land should be excluded, Ministers must agree that the land is rural, and can consider factors such as local population and other factors associated with or characteristic of the land. Salmon fishings and mineral rights are included in registrable land, as is foreshore (but not that adjacent to any excluded settlement).

70. There could be situations in the future where Ministers would want to amend what is “registrable land” to include, for example, the interests of the tenant in tenanted land.

Section 33: <http://www.legislation.gov.uk/asp/2003/2/section/33>

*Community Right to Buy (Definition of Excluded Land) (Scotland) Order 2009:*  
<http://www.legislation.gov.uk/ssi/2009/207/contents/made>

Q18 Do you think that Ministers should have the power to extend “registrable” land” to cover land that is currently not included as “registrable land”? What other land should also be considered as being “registrable”?

## **A compulsory right for communities to purchase land**

### Compulsory powers for communities to acquire neglected or abandoned land

71. A number of early examples of land reform in Scotland relate to land the community and observers felt was in neglect and where community ownership was considered necessary to the community’s survival, for example the purchase of the Isle of Eigg. However, while the existing community right to buy allows a community to register an interest in land, it can only buy the land if the owner decides to sell.

72. There may be further instances where the land which a community wishes to secure for its development is neglected or abandoned. The Scottish Government considers that in such circumstances, where all other options fail to achieve good land stewardship, there is an argument that communities should be able to acquire that land without having to wait for it to be put onto the market, where neglect can be demonstrated and it can be shown that community ownership would be in the public interest. It is particularly important in this context to ensure that any measures meet the requirements of Article 1 of Protocol 1 to the ECHR, referred to above in paragraph 64.

73. We want to explore what a compulsory power for communities to buy neglected or abandoned land under these circumstances could look like and how it would work. Land which is intended for recognised conservation purposes would not be considered to be neglected or abandoned.

Q19 Do you think that there should be a compulsory power for communities to buy neglected or abandoned land in certain circumstances? What should these circumstances be?

Q20 How do you think this should work in practice? How do you think that the terms “neglected” and “abandoned” should be defined?

## **Streamlining the community right to buy**

### Application form to register a community interest in land

74. We have had comments from community bodies that the application form to register and re-register a community interest in land could be simplified and made easier to complete.

75. The criteria that have to be met for Ministers to consent to register a community interest in land are set out in section 38(1) of the Act. In addition, section 36(2) sets out information and documents to be included in the Register of Community Interest in Land which includes all applications and Ministerial decisions

on applications. The application form to register a community interest in land is a statutory one: the current one is provided in the Community Right to Buy (Prescribed Form of Application and Notices) (Scotland) Regulations 2009.

76. If we want to streamline the application process we need to consider in the first instance: (1) the criteria to be met by a community body; and (2) the information to be included in the Register of Community Interests in Land. Should it be considered that these provisions need to be changed, the 2003 Act will be amended by the Community Empowerment (Scotland) Bill.

77. If it is considered that changes should be made to the application form itself, these will be made by means of a statutory instrument replacing or amending the 2009 Regulations. A separate consultation will need to be brought forward to fully consider such proposed changes. However, at this time it would be helpful to consider what if any changes should be made to the application form.

Section 36: <http://www.legislation.gov.uk/asp/2003/2/section/36>

Section 38: <http://www.legislation.gov.uk/asp/2003/2/section/38>

*Community Right to Buy (Prescribed Form of Application and Notices) (Scotland) Regulations 2009:* <http://www.legislation.gov.uk/ssi/2009/156/made>

Q21 Do you think that the criteria to be met by a community body in section 38(1) of the Act are appropriate? Do you think that there should be additional criteria? Please set out what changes or additions should be made to the criteria.

Q22 Do you think that the information that is included in the Register of Community Interests in Land is appropriate? If not, what should that information include?

Q23 How could the application form to register a community interest in land be altered to make it easier to complete (eg, should there be a word limit on the answers to particular questions)? Should the questions be more specifically directed to the requirements of sections 36(2) and 38(1) of the Act? Do you have any other suggestions?

#### Communities responding where land unexpectedly comes on the market

78. The underlying policy of the community right to buy is that community bodies should prepare themselves for the community ownership of land. Communities should therefore be proactive in identifying land and land assets that can contribute to their sustainable development. Thus, “late applications” can only be made in “exceptional” circumstances.

79. Section 39 sets out a procedure to be followed when applications to register a community interest in land are received after steps have been taken to transfer the ownership of the land. Scottish Ministers are only able to approve a “late” application where certain additional criteria to those relating to the “timeous” application have been met: that there are good reasons why the application was not

made before the owner of the land had taken action with a view to transferring the land; that the level of support within the community is significantly greater than would have otherwise been sufficient; and that there are factors which are strongly indicative of the application being in the public interest.

80. There are, however, instances where the land comes on sale unexpectedly and only then does the community think about purchasing it, never having given that issue any consideration. In such cases communities are unable to meet the requirements of section 39(3), and in particular the good reasons why a community body had not been preparing an application to register a community interest in land.

81. We are aware that while some communities can negotiate with the seller, not all are willing to do so and in such cases the community has lost its opportunity to secure the land.

*Section 39: <http://www.legislation.gov.uk/asp/2003/2/section/39>*

Q24 Do you agree that communities should be able to apply to register an interest in land in cases where land unexpectedly comes on the market and they have not considered using the community right to buy? If so, what changes should be made to section 39 to ensure that such communities can apply to register a community interest in land?

#### Re-registration of a community interest in land

82. A registered interest in land lasts for five years (section 44). A community body can apply to “re-register” its community interest in land six months before its registration expires. The registration and re-registration processes are the same, including the information required on the application form. If there are changes in the extent of land or proposals for the sustainable development of the land, then a fresh application to register an interest in land is required.

83. There have been calls that the process to re-register a community interest in land are onerous. In particular, the application form has been singled out.

84. We do not consider that the re-registration process should be a simple roll-over of the registration. It is important that a registration continues to be in the public interest and that a community body has the community’s support for it. It is important that the application is still relevant. However, we consider that there are things that could be done to make re-registering that interest more straightforward.

85. We consider that re-registration could become a process to re-confirm a registered interest in land. We propose that the application form and work to complete it could be streamlined, but the consultative process between the landowner and the community body, and consideration and subsequent approval or rejection by Ministers would remain the same.

*Section 44: <http://www.legislation.gov.uk/asp/2003/2/section/44>*

Q25 Do you agree that the process to re-register a community interest should be a

re-confirmation of a community interest in land?

Q26 Do you think that the community body should be asked to show that its application is (1) still relevant, (2) has the support of its “community”, and that (3) granting it is in the public interest?

#### The timescale to complete the “right to buy”

86. When a right to buy is triggered in relation to a “timeous” application, a community body has seven months to complete its right to buy; this period can be extended by agreement between a community body and the landowner. The timescales for the right to buy are set out in section 56(3) of the Act.

87. Community bodies and other stakeholders have stated that the period to complete the right to buy is too short and that this period should be extended. In particular, they have argued that the time available after the Minister has given consent to the community body to proceed with its right to buy and to complete the purchase and transfer of the land is too short.

88. Taking into consideration the needs of both the community body and the landowner, the statutory period of the right to buy could be extended.

*Section 56: <http://www.legislation.gov.uk/asp/2003/2/section/56>*

Q27 What do you think should be the length of the statutory period for completing the right to buy, taking into account both the interests of the landowner and the community body? Please explain the reasons for your proposal.

Q28 Do you think that some of the tasks within the right to buy (such as valuation, ballot etc) should be rearranged and the timescales for their completion changed in order to make the best use of the time available within the right to buy? Please set out what changes you think should be made and why.

#### Ballot issues – Balloting arrangements

89. There have been a number of issues raised in relation to the requirement for community bodies to undertake a community ballot. These include:

- the onerous nature of the ballot on community body resources while there are other activities to undertake
- the tight timescales to undertake the ballot
- the difficulty of accessing the full electoral roll and ensuring that the community body has accurately identified the names of the relevant eligible voters (a major concern where there is a large ballot).

90. Scottish Ministers could instruct an independent party (such as a local council or specialist companies) to undertake the ballot for the community body. Scottish Ministers could also pay the costs of the ballot.

91. This would ensure that the ballot was fully independent of the community body. The ballot results would also, as at present, be independently verified (eg by

the local returning officer), and the ballot results sent at the same time to the Scottish Ministers, the community body and the landowner. At present the landowner is not given the ballot results.

Q29 Do you agree that Scottish Ministers should organise the undertaking of a community body's ballot and pay its costs? If you disagree, please provide your reasons.

Q30 Should Scottish Ministers notify the ballot result to the landowner? Please explain your reasons.

### Right to buy "application" – pro-forma

92. There is no right to buy "application form". Community bodies submit documentation that they consider will meet the requirements of the legislation.

93. As part of the right to buy "application" Ministers need to be satisfied that what the community body proposes to do with the land is compatible with furthering the achievement of sustainable development (section 51(c)). Community bodies have provided a range of evidence to prove this to Ministers. This has included business plans and feasibility studies, both finalised and draft. Some are extensive; others are short and concise. Community bodies have used these documents and the information in them to help them secure funding for their proposals.

94. Ministers could develop a proforma for community bodies to help them set out their plans for the sustainable development of land. We consider that this would help community bodies be clear about their proposals.

Q31 Do you think Ministers should develop a pro-forma for community bodies to set out their plans for the sustainable development of land and community? Please give reasons for your view.

### **Improving the process of the right to buy**

#### Written definition of "community"

95. Extending Community Right to Buy to all parts of Scotland creates discussion as to what is a community. A community body describes its "community" (section 34(5)). This is set out in its Memorandum & Articles of Association, or Articles of Association (herein all referred to as Articles of Association). It is also recorded in its application to register a community interest in land and is used to determine who should be included in any community ballot should the registered land come on the market.

96. A community body describes its "community" according to a postcode unit or units. Ministers also have the discretion to allow a "community" to be defined by other means. They have accepted definitions based on postcode districts or sectors. This has avoided the need for a lengthy postcode listing, and has ensured that where additional postcodes have been created, the community body does not need to continually update its Articles of Association.

97. Community bodies could have greater flexibility in how they define their “community”. We propose that they should be able to define their “community” by the use of any of the following:

- postcodes/postcode sectors
- settlement areas (defined and updated by the General Register Office for Scotland (GROS))
- localities of settlements (defined and updated by GROS)
- electoral wards (set out by the Local Boundary Commission for Scotland).

*Section 34: <http://www.legislation.gov.uk/asp/2003/2/section/34>*

Q32 Do you agree that community bodies should be able to define their “community” in a more flexible way by the use of either postcodes, settlement areas, localities of settlements, and electoral wards, or a mixture of these, as appropriate?

Q33 Are there any other ways that a “community” could be defined?

“Community body”: appropriate legal entities

98. Under the current provisions, the only type of legal entity that can apply to register a community interest in land is a company limited by guarantee (section 34(1)).

99. We have had calls that other legal entities should be able to apply under the Act as it is felt that the provisions are unduly restrictive.

100. We consider that Scottish Charitable Incorporated Organisations (SCIOs) should also be able to apply under the Act. As with companies limited by guarantee, they would need to meet set criteria.

101. SCIOs are Scottish Charitable Incorporated Organisations that provide the legal identity, limited liability, and orderly dissolution provided by the company limited by guarantee. However, they do not have a requirement to incorporate with and report to both Companies House and the Office of the Scottish Charities Regulator (OSCR). The provisions for SCIO constitutions and dissolution were designed with small and medium sized organisations in mind; this would include most community bodies.

*Section 34: <http://www.legislation.gov.uk/asp/2003/2/section/34>*

Q34 Do you agree that other legal entities in addition to the company limited by guarantee should be able to apply to use the community right to buy provisions?

Q35 Do you agree that SCIOs should be able to apply under the provisions?

Q36 What other legal entities should be able to apply under the community right to buy provisions – and why?

### “Forever conditions”

102. Not all communities that set up a company that is compliant with the 2003 Act choose to submit an application to register an interest in land; others which have an expired registration have no further intention of using the Act. Some have purchased land and have no further intention of using the Act.

103. Scottish Ministers “approve” the Articles of Association of a community body before it can apply under the community right to buy to register a community interest in land (section 34(4)). Whenever a community body wishes to make changes to its Articles of Association, these have also to be approved by Ministers. In some cases the proposed changes could mean that the criteria for compliance are no longer met (section 34(1)). In other cases the proposed changes do not affect these criteria. Changes to constitutions for companies limited by guarantee are reported to Companies House.

104. We believe that Ministers should continue to “approve” the Articles of Association of a community body before it can apply under the community right to buy (section 35(2)). However, instead of continually approving all changes to all Articles of Association, we propose that only where community bodies are actively seeking to use or are actively using the community right to buy provisions, they should continue to be compliant with the Act.

105. We believe that this would give freedom to companies that are not seeking to use the Act to alter their constitution as they wish. However, should a company body decide later that it wanted to use the Act it would have to ensure that it was compliant, and seek Ministerial approval. After a community has purchased the land we do not think that Ministers need continue to monitor the constitution, unless a community wanted to register an interest in other land.

*Section 34: <http://www.legislation.gov.uk/asp/2003/2/section/34>*

Q37 Do you agree that Ministers should only have to “approve” the changes to Articles of Association for community bodies that are actively seeking to use or are using the community right to buy?

### Length of the period of registration

106. We have received comments from community bodies that the period of the registration of five years is too short (section 44). It has been argued that this period is disproportionate to the amount of work that is required to register a community interest in land.

107. It could be argued that there should be a balance between the length of the registration and the requirements to register an interest in land. A longer period of registration should therefore have a more rigorous application process.

108. It could be that by making changes to the application form to register a community interest in land, the five year period of registration would be more appropriate.

109. As noted above, proposals to streamline the application form need to consider the information to be included in the Register of Community Interests in Land and the criteria to be considered by Ministers, as well as the application form itself.

*Section 44: <http://www.legislation.gov.uk/asp/2003/2/section/44>*

Q38 Do you think that the length of a registered interest in land should remain as 5 years or be changed? If it should be changed, how long should it be – and what are your reasons for making that change?

#### Valuation of the land – counter representations

110. The procedure for the valuation of the land is set out in section 60. The landowner and the community body have the opportunity to provide representations on the value of the land. At present there is no process to allow for counter representations, a standard RICS Independent Expert/Arbitration procedure.

111. Counter representations could provide increased confidence in the valuation, particularly as some landowners have been unhappy about the valuation figure for their land, but have not used the statutory appeal mechanisms to appeal it. The inclusion of counter representations would extend the period of the valuation from 6 to 8 weeks.

Q39 Do you agree that the valuation procedure should include counter representations by the landowner and community body? If you disagree, please give your reasons for your decision.

#### Landowner withdrawing land from sale

112. The community right to buy currently involves only situations with a willing seller and willing buyer. There have been instances where a landowner has put registered land on the market and then withdrawn the sale, usually after the valuation figure for the land has been revealed. This extinguishes a community body's right to buy, though its registration remains in place. The question arising is, as a willing seller, should the landowner be able to withdraw the land from the market without any justification?

Q40 Do you think that there should be a provision to deter landowners from taking the land off the market after they have triggered the right to buy? Please explain your reasons.

#### Ballot – level of support to be secured

113. While there is flexibility in the level of support which a community body has to secure for Ministerial approval in relation to a right to buy application (section 51(2)(a) and (b)), there is a widespread perception that a community group must

secure 50% turnout. We have been told that for large communities this level of support is particularly problematic.

114. While we currently have flexibility in the ballot result, we want to explore whether the amount of community support could be considered in other ways. It could focus on a sufficient amount of support to justify proceeding with the right to buy the land. It could also focus on the level of “No” votes so that the support does not just rely on the number of “Yes” votes.

Section 51: <http://www.legislation.gov.uk/asp/2003/2/section/51>

Q41 Do you think that there should there be greater flexibility in a community body’s level of support for a right to buy in the ballot result than is currently permitted?

Q42 Do you think that the ballot result should focus on a sufficient amount of support to justify the community support to proceed with the right to buy the land? If yes, please explain how secured community support should be measured.

#### Ballot – extenuating circumstances

115. Community bodies have stated that there are times in the year when it is difficult to achieve a good turnout to the ballot. We have heard that the summer holiday period has posed problems and also the festive period over Christmas and New Year and other periods of public holidays. We also know from some communities that there have been problems with the postal system and that they received a significant number of late returns which could not be taken into account and which would have boosted the ballot. Periods of severe weather (especially snow) could potentially impact significantly on a ballot. Community bodies have asked if they can provide additional evidence to support their ballot result where circumstances outwith their control have had impact on their ballot result.

116. We propose that community bodies should be able to submit evidence to Scottish Ministers in support of their ballot return where they believe that their ballot has been affected by circumstances outwith their control, if they wish to do so. Ministers would take that evidence into consideration when considering the level of support achieved in the ballot.

Q43 Do you agree that community bodies should be able to submit evidence to Ministers in support of their ballot result where they believe that their ballot has been affected by circumstances outwith their control?

#### Right to buy “application” – need for further information

117. Article 7(3) of the Community Right to Buy (Ballot) (Scotland) Regulations 2004 gives Ministers the opportunity to ask a community body for additional information on its ballot; that information is to be provided within seven days of the request being made. This provision has been used on a number of occasions to clarify points.

*Community Right to Buy (Ballot) (Scotland) Regulations 2004:*  
<http://www.legislation.gov.uk/ssi/2004/228/contents/made>

Q44 Do you think that Scottish Ministers should be able to ask community bodies for additional information relating to their right to buy “application” which Ministers would then take into account in considering their right to buy “application”? Please explain your reasons.

#### Option agreements and the community right to buy

118. An option agreement is a private agreement between a landowner and another party to purchase land: it is in effect another right of pre-emption. They can be stopped at any time by agreement of the two parties. Options are not made publically available.

119. We have had community bodies which have wanted to register a community interest in land which has been subject to an option agreement, prior to the group seeking to register its interest. However, we have been unable to accept such applications.

120. We propose that Ministers should be able to accept applications to register a community interest in land for which the land is subject to an option agreement on all or part of the land. The option agreement would remain in place while there was a registered interest. The landowner would still be able to transfer the land in accordance with the conditions set out in the option. This would be by means of an exempt transfer (currently set out at section 40(4)).

*Section 40:* <http://www.legislation.gov.uk/asp/2003/2/section/40>

Q45 Do you think that Ministers should be able to accept an application to register a community interest in land which is subject to an option agreement (on part or all of the land)?

Q46 If there is an option agreement in place, do you think that the landowner should be able to transfer the land as an exempt transfer while there is a registered interest over that land? Please explain your answer.

#### Date of the prohibition notice coming into effect for the owner/heritable creditor

121. A prohibition notice is placed on a landowner/heritable creditor to prohibit them from transferring, or taking steps with a view to transferring the land or any part of it which is subject to an application to register a community interest in land.

122. This notice comes into effect from the date when the owner/heritable creditor receives that notice (section 37(5)(c)). Although all correspondence is issued by recorded delivery it may have to be collected from a delivery centre; not everyone picks up their mail immediately after being notified of it; some mail has also been returned as it has not been picked up.

123. This could mean that a prohibition is not placed on the owner/heritable creditor until some time after Ministers sent out the prohibition notice. During that period the landowner could have taken steps to market the land.

124. It could be argued that the prohibition should apply from the day after the day on which Ministers issue the prohibition letter. We currently assume that the landowner/heritable creditor will receive the prohibition the day after posting.

Q47 Do you think that the prohibition on the landowner from taking steps to market or transfer the land to another party should apply from the day after the day on which Ministers issue the prohibition letter rather than the day when the owner/heritable creditor receives the notice? Please explain your answer.

#### Public holidays

125. There have been times when the statutory deadlines to be met by parties involved in registering a community interest in land and the right to buy have fallen on public holidays. This has posed difficulties.

126. A provision to exclude these days from the statutory timescales would be helpful. For example, a landowner has 21 days to submit their comments on a community body's application to register a community interest. If the deadline for those comments was to fall on 28 December, an additional two days would be given to them to allow for the two public holidays for Christmas (25 and 26 December).

Q48 Do you agree that public holidays should be excluded from the statutory timescales to register a community interest in land and the right to buy?

#### "Exempt" transfer of land

127. There have been a number of "exempt" transfers of land on which a community interest has been registered (sections 40(4) and 40(5)). These are transfers which are permitted, such as a transfer as a gift, or a transfer between companies in the same group.

128. Scottish Ministers are not made aware of such transfers. This means that the administrative records relating to a community interest in land become out of date.

129. We propose that where there has been an exempt transfer, Scottish Ministers should be notified of that action. Details of the transfer should be noted, including the name and address of the new owner.

*Section 40: <http://www.legislation.gov.uk/asp/2003/2/section/40>*

Q49 Do you agree that where a landowner makes an "exempt" transfer, this should be notified to Scottish Ministers? If you disagree, please provide reasons for your decision.

### Changes to a community body's contact address and registered office

130. During the time when a community body has registered its community interest in land, its Directors may change. The contact details provided to Scottish Ministers in their application to register a community interest in land may change, as also the address of the registered office. The landowner may also change their address.

131. When we have contacted community bodies and landowners as part of our administrative arrangements to inform them of re-registering their community interest in land (at 4 years after registration) we sometimes get mail returned to us, the recipient having moved away or unknown at that address.

Q50 Do you agree that community bodies and landowners should notify Scottish Ministers of any changes to their contact details (including any registered office)?

### Monitoring the community right to buy

132. Ministers do not currently monitor the impact of the community right to buy. The impact on a community can be both tangible and intangible. For example, tangible impacts include the number of jobs created; intangible ones include evidence relating to how community confidence has been altered.

133. Ministers have received a number of calls to monitor the community right to buy. This would provide evidence on how the provisions were working in practice.

Q51 Do you think that Ministers should monitor the impact of the community right to buy? How do you think that monitoring should be undertaken and what information should Ministers seek? Should the monitoring process be a statutory requirement, including provisions for reporting?

## 4.2 Strengthening Community Planning

### What is Community Planning?

134. The purpose of community planning is get public services working together with each other and with communities and the third and private sectors to make the most effective use of their collective resources to deliver better outcomes for communities.

135. Community planning was given a statutory basis by Part 2 of the Local Government in Scotland Act 2003 and is formally defined as “a process by which the public services provided in the area of the local authority are provided and the planning of that provision takes place”. The Act places duties on:

- local authorities to initiate, facilitate and maintain community planning
- core partners – Health Boards, Scottish Enterprise / Highlands and Islands Enterprise, Police Scotland, Scottish Fire and Rescue Service and Regional Transport Partnerships – to participate in community planning, and
- Scottish Ministers to promote and encourage community planning.

136. The Act is supported by statutory guidance<sup>5</sup> which expands on these duties and describes what effective community planning should achieve.

137. Although the 2003 Act makes no provision for the establishment and functions of Community Planning Partnerships (CPPs), the framework provided by the Act and associated guidance has led to the formation of 32 such Partnerships, one in each local authority area, across Scotland. These CPPs bring together local authorities, core partners and other agencies such as colleges, Skills Development Scotland and Scottish Natural Heritage, along with representatives from communities and the third and private sectors, to jointly plan and deliver services.

138. Each CPP operates in a different way and at a range of different levels to suit local circumstances. All CPPs have a ‘high-level’ Board or Partnership which has broad responsibility for community planning in the area, for strategic oversight of partnership working, and for the development and delivery of key partnership strategies, most notably the Single Outcome Agreement (SOA) which, following recent (non-statutory) guidance<sup>6</sup>, provides a shared ‘plan for place’ aimed at reducing inequalities and delivering better outcomes for communities. These Boards or Partnerships vary in size and membership but usually involve local elected members and senior officers from key partners. A few also involve non-executive members from partners, such as the Chair of the local NHS Board.

139. Whilst the CPP Board or Partnership is the most recognisable element of community planning, the vast bulk of partnership planning and delivery happens through an array of thematic and area/neighbourhood based groups which, although not always apparent, come under the umbrella of the CPP. And of course front line workers from across public services and communities often work together to solve

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<sup>5</sup> <http://www.scotland.gov.uk/Resource/Doc/47237/0028845.pdf>

<sup>6</sup> <http://www.scotland.gov.uk/Topics/Government/local-government/CP/SOA2012/SOA2012>

problems and improve outcomes without getting involved in community planning structures.

### The case for change

140. As the Christie Commission made clear, Scotland's public services need to work more closely with each other and with communities than ever before. Without such working, and without public services bringing their collective resources to bear, the challenges facing Scotland's communities will remain stubborn – challenges like getting young people into work, tackling health inequalities, and giving children the best start in life. Moreover, in the context of increasing demands on public services and declining public expenditure, such working is critical to making prevention the defining feature of how public services work in Scotland and to delivering better outcomes for people and places.

141. In that context, the Scottish Government / COSLA Statement of Ambition on Community Planning and SOAs<sup>7</sup> (March 2012) stated that:

*Effective community planning arrangements will be at the core of public service reform. They will drive the pace of service integration, increase the focus on prevention and secure continuous improvement in public service delivery, in order to achieve better outcomes for communities.*

The Statement also set out what CPPs must do and how they should operate and improve outcomes.

142. At the same time, the Scottish Government and COSLA recognised that significant changes, including legislative change, would be needed to ensure the successful realisation of that shared ambition for community planning.

143. This is also recognised by the Accounts Commission and Auditor General's work on Improving Community Planning in Scotland<sup>8</sup> which, among other things, concluded that CPPs need to significantly improve their governance and accountability arrangements and that CPP partners, such as councils and NHS Boards, need to take full account of community planning priorities and SOA commitments in their budget setting and business planning decisions.

144. The legislative proposals set out in this chapter seek to address these issues by strengthening the roles and responsibilities of CPPs and placing new duties on public sector partners to play a full and active role in community planning and the resourcing and delivery of local priority outcomes.

145. In making these proposals it is fully recognised that legislation alone cannot deliver the step change in community planning that is required to deliver the Statement of Ambition. Rather, the proposals complement and reinforce the significant national and local action that is already underway to strengthen community planning. This includes:

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<sup>7</sup> <http://www.scotland.gov.uk/Resource/0038/00389822.doc>

<sup>8</sup> [http://www.audit-scotland.gov.uk/docs/central/2013/nr\\_130320\\_improving\\_cpp.pdf](http://www.audit-scotland.gov.uk/docs/central/2013/nr_130320_improving_cpp.pdf)

- the development and delivery of new SOAs, which provide a clear ‘plan for place’, focused on prevention and reducing inequalities, through which CPPs mobilise local assets and resources to deliver better outcomes for communities
- the agreement of Development Plans by and with each CPP to help them further develop their SOAs and make progress towards the Statement of Ambition
- CPPs and individual partners taking steps to improve community planning locally by, for example reviewing and improving their governance and performance management arrangements
- new scrutiny arrangements, led by the Accounts Commission and Auditor General, which provide assurance for the performance of CPPs and help them to deliver better outcomes
- the establishment of a National Community Planning Group to provide political and strategic leadership and guidance, and
- publication of the Agreement on Joint Working on Community Planning and Resourcing<sup>9</sup> which places clear expectations on local government, the NHS and other public bodies to share budget and resource planning assumptions with each other at an early stage, and to work together through CPPs to deploy resources towards the jointly agreed priorities set out in each CPP’s Single Outcome Agreement.

146. These actions will help drive progress towards the Statement of Ambition, but legislative change is also required.

### Proposals

147. In broad terms, our approach to creating the right legislative framework for effective community planning is to:

- (i) Place increased emphasis on the planning and delivery of outcomes;
- (ii) Put CPPs and their key roles and responsibilities on a statutory basis;
- (iii) Place new duties on partner bodies so that the CPP can fulfil its responsibilities, and so that each partner’s role in community planning is fully reflected in its own governance and accountability arrangements; and
- (iv) Ensure that the external scrutiny provided by the Accounts Commission, the Auditor General and other bodies reinforces the above and supports progress towards the Statement of Ambition.

### ***CPPs and the planning and delivery of outcomes***

148. The Statement of Ambition set out the key tasks for CPPs to effectively plan and deliver outcomes. As outlined above, the 2003 Act makes no provision for the establishment and functions of CPPs and frames community planning as a process by which the planning and provision of public services in an area takes place. That broad framework has enabled each of Scotland’s 32 CPPs, and the structures and

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<sup>9</sup> <http://www.scotland.gov.uk/Resource/0043/00433714.pdf>

systems below them, to evolve and develop to suit local circumstances. This has delivered some success in partnership working and relationships, in community engagement and in the development and delivery of specific projects. CPPs have also made significant progress in their work on new SOAs. However, it is our view that progress towards the Statement of Ambition requires CPPs to be put on a statutory basis and for their core duties in the planning and delivery of outcomes to be defined more clearly.

149. We therefore propose that:

- a Community Planning Partnership (CPP) must be established by relevant partners in each local authority area, and that
- the core legislative underpinning for community planning is amended to place stronger emphasis on the purpose of delivering better outcomes.

150. The statutory requirement for partners to establish a CPP does not mean that CPPs will have to be formally incorporated as separate legal bodies, though we do not intend to repeal section 19 of the Local Government in Scotland Act 2003 which enables CPPs to do that (subject to agreement from Scottish Ministers and approval from Parliament). Although no CPP has, to date, sought incorporation, the role of an incorporated CPP is not confined to providing administrative support to the CPP and could potentially be used to provide services from two or more partners in an integrated way.

151. We further propose that, reflecting the Statement of Ambition, the core duties of each CPP should be to:

- develop and agree a common understanding of local needs and opportunities
- agree common and shared outcomes for the CPP area
- develop an effective, shared approach for achieving those outcomes - identifying who will do what, by when, and with what resources
- manage performance to ensure improvement of outcomes
- scrutinise and challenge all partners' contributions to the delivery of the agreed shared priorities
- provide strategic oversight of arrangements for partnership working in the CPP area
- report to communities and other stakeholders on the delivery of agreed priorities and the effectiveness of community planning in the area
- consult and engage with the third sector and the business community on the outcomes to be achieved and how they can best be delivered, and
- consult and engage with communities in identifying and prioritising the outcomes that are to be delivered and ensure that community engagement is properly planned, resourced and integrated across partners.

152. In our view, the bulk of these core duties could be delivered by putting the need for CPPs to develop and ensure delivery of a shared plan for outcomes (i.e something similar to a Single Outcome Agreement) in the CPP area on a statutory basis. This would complement our proposal in Chapter 5.1 to place a duty on Ministers to develop, consult on and publish a set of outcomes that describe their long term, strategic objectives for Scotland. Moreover, in community planning terms such an approach would not only capture the key elements of some of the core

duties listed above, but also provide greater clarity on what the CPP is jointly and collectively accountable for and, in turn, the roles and contributions of individual partners. It would also provide a statutory focus for performance management, scrutiny and challenge by the CPP; for the internal governance and accountability arrangements of individual partners; and for external scrutiny of CPPs and individual partners by the Accounts Commission, Auditor General and others.

153. The legislation would focus on the core principles and elements of such an approach with more detailed advice provided, as at present, through guidance.

154. These proposals are principally aimed at defining the most important roles and duties of each CPP's Strategic Board or Partnership. Such Boards or Partnerships could take on other, locally defined, roles where they saw fit and it would be for CPPs to decide on the most effective structures and mechanisms, under the umbrella of the Partnership/Board, for planning and delivery.

155. In defining the core duties of the CPP it is important to consider whether the size and membership of the Partnership/Board is right for those duties. In line with the findings of 'Improving Community Planning in Scotland', CPP Boards need to ensure they are effective at leading strategic change, with the associated dynamic leadership and strong culture of collective challenge that requires. Furthermore, while individual partners will remain formally accountable to their parent organisations, the CPP has a key role in scrutinising and challenging the individual and collective commitment and contribution of partners. This is a key area for development identified by the Accounts Commission and Auditor General and is closely linked to their call for greater clarity about the roles that local elected politicians, non-executive board members, and officers are expected to take on as part of the community planning process. Elected members, non-executives and possibly community representatives are arguably better placed than officers to provide genuine governance and scrutiny. Meanwhile, senior officers are arguably better placed to undertake work on strategic planning and delivery and to ensure that the structures and mechanisms working to the Partnership/Board are effective. We welcome views on this issue and if and how the legislation might approach it.

### ***Duties on partner bodies***

156. To be successful, community planning requires all public sector organisations on which outcomes for communities depend to participate fully in the community planning process and in helping the CPP fulfil its core duties.

157. As indicated above, the 2003 Act places a duty on local authorities to initiate, facilitate and maintain community planning; on core partners to participate in community planning; and on Scottish Ministers to promote and encourage community planning. Further detail on these duties is provided in the statutory guidance which, in broad terms, sets out the role of the local authority (eg setting a clear vision and objectives for the area; defining performance outcomes and identifying the resources necessary to deliver those outcomes; and monitoring and reporting on progress) and then places a duty on the other core partners to assist the local authority in that role.

158. Our aim is to ensure that each and every public sector organisation which can help the CPP fulfil its core duties takes that responsibility as seriously as its other statutory functions and duties, and that their governance and accountability arrangements reinforce that. The duties for individual partners would therefore be framed in terms of a duty on each partner to support the CPP in the fulfilling its core duties and in particular:

- in setting their own priorities, to consider the agreed outcomes each CPP is seeking to achieve
- to work with other partners to improve outcomes in the CPP area
- to participate in the development of a shared plan for outcomes in each CPP area;
- to commit resources to the delivery of that plan; and
- to report to its parent organisation and to the CPP on its contribution to community planning and the delivery of outcomes

159. These duties aim to shift what participation in community planning means, from something which is often focused on an organisation's membership of the CPP Board and/or participation in meetings, to something which is more explicitly focused on that organisation's contribution to the delivery of improved outcomes for communities.

160. We do not propose to change existing formal lines of accountability for public sector bodies, such as those of NHS Boards to Scottish Ministers, or a council to its electorate. Nevertheless, these lines should ensure that key players in the accountability chain for each partner body (which might include, depending on the partner, its board, the Council or Scottish Ministers) hold organisations and individuals to account for their contribution to community planning and the resourcing and performance in delivering agreed outcomes, in the same way as they hold them to account for their other statutory duties and delivery responsibilities. This could be supported by requiring organisations to report, as part of their routine reporting processes, on their contribution to community planning and the delivery of agreed outcomes by CPPs.

### ***Which organisations should the duties apply to?***

161. As well as local authorities and core partners a wide range of other organisations, such as colleges, Skills Development Scotland and Scottish Natural Heritage, already participate in community planning across Scotland. It would be possible to use the existing legislation to add to the list of core bodies under a duty to participate in community planning. That could, for example, place that duty on those organisations which might be expected to have a substantive role in the delivery of outcomes by CPPs right across Scotland or in the particular areas they cover. In our view, and in addition to local authorities and existing core partners, those organisations are:

- Cairngorms National Park Authority
- Loch Lomond and the Trossachs National Park Authority
- Scottish Environment Protection Agency
- Scottish Natural Heritage

- Skills Development Scotland
- SportScotland
- VisitScotland

It will also be important to take into account any “integration authorities” established under the Public Bodies (Joint Working) (Scotland) Bill, currently being considered by the Scottish Parliament.

162. This would provide clarity to those organisations and to CPPs about what is expected of them. On the other hand, given the diverse nature of local circumstances and needs across Scotland, there will be other bodies that can contribute to the delivery of outcomes in particular CPP areas and which have an equally important role in community planning in those areas. It may therefore be advantageous to take a more expansive and enabling approach which, rather than prescribing a specific list of bodies, places a duty across the public sector but takes account of the statutory functions of particular organisations and whether they have a genuine role in the delivery of local outcomes. Such an approach is legislatively challenging and would need to avoid placing unnecessary burdens on organisations like the Scottish Legal Aid Board and Disclosure Scotland which do not have a direct role in the delivery of local outcomes. We welcome your views on these issues.

### ***The role of the local authority***

163. Local authorities are at present under a statutory duty to initiate, facilitate and maintain community planning. On the one hand, this has meant that councils have played a significant role in the progress of community planning to date. On the other, it may contribute to the Accounts Commission/Auditor General’s finding that “Community planning has also been seen as a council-driven exercise and not a core part of the day job for other partners who have had little incentive to get fully involved”.

164. The duties on partners outlined above will mean that community planning can no longer be considered something that local authorities are responsible for taking forward alone, and will shift the balance between the participation and contribution of the council and other partners. This may mean that the existing duty on local authorities is no longer required. That said, councils have a local democratic mandate and broad understanding of the needs and aspirations of local communities and it may be that community planning still needs councils to have a primary role in driving it forward. The trick here is to enable the council to exercise community leadership without the CPP being seen as an extension of the local authority. We welcome views on how this might best be achieved.

### ***External scrutiny***

165. The success of the new arrangements will require public sector bodies to be effectively held to account for how they fulfil the duties placed on them and CPPs. This is partly about engaging with and reporting to communities, and partly about the roles of the Accounts Commission, Auditor General and other scrutiny bodies.

166. The 2003 Act already places a duty on local authorities to publish reports from time to time on how community planning has been taken forward locally. We propose that this duty should be placed on CPPs and should reflect their new duties.

167. The Accounts Commission and Auditor General have used their existing powers to undertake pilot audits of three CPPs and will be undertaking further audits over the next year. We welcome views on how the scrutiny regime might be strengthened to support the proposals above and whether any legislative changes is required to achieve this.

### Consultation Questions

- Q52 What are your views on our proposals for requiring a CPP to be established in each local authority area, and for amending the core statutory underpinning for community planning to place stronger emphasis on delivering better outcomes?
- Q53 What are your views on the core duties for CPPs set out above, and in particular the proposal that CPPs must develop and ensure delivery of a shared plan for outcomes (i.e., something similar to a Single Outcome Agreement) in the CPP area?
- Q54 Do the proposed duties of the CPP support effective community engagement and the involvement of the third and business sectors? What other changes may be required to make this more effective?
- Q55 How can we ensure that all relevant partners play a full role in community planning and the delivery of improved outcomes in each CPP area? Do the core duties set out above achieve that? What else might be required?
- Q56 What are the respective roles of local elected politicians, non-executive board members and officers in community planning and should this be clarified through the legislation?
- Q57 Should the duty on individual organisations apply to a defined list of public bodies – if so, which ones? Or should we seek to take a more expansive approach which covers the public sector more generally?
- Q58 Local authorities are currently responsible for initiating, facilitating and maintaining community planning. How might the legislation best capture the community leadership role of Councils without the CPP being perceived as an extension of the local authority?
- Q59 How can the external scrutiny regime and the roles of organisations such as the Accounts Commission and Auditor General support the proposed changes? Does this require changes to their powers or functions?
- Q60 What other legislative changes are needed to strengthen community planning?

### 4.3 Allotments

168. Communities can be empowered by ensuring people have access to land that can provide both health and social benefits and a connection to the local environment. One way to achieve this, which is growing in popularity, is through access to allotments.

169. In 2009 the Scottish Government's National Food and Drink Policy made a clear commitment to strategically support allotments. It was recognised that the legislation surrounding allotments was complicated and needed to be updated. It was therefore a SNP Manifesto Commitment in 2011 to review this legislation.

170. Background and further information on the Allotments legislation can be found in the previous Allotments Consultation at <http://www.scotland.gov.uk/Topics/Business-Industry/Food-Industry/own>

171. The following sections set out the changes we propose to make in order to create updated, simplified legislation to support allotments, and seek your views.

#### The Definition of Allotment

172. We propose that allotments should be defined as follows:

##### Allotment Site:

An area of land that is subdivided into allotment plots and which may or may not include communal areas and buildings.

##### Allotment Plot:

- a. A piece of land on an allotment site between 60 -?m<sup>2</sup>
- b. used mainly for the cultivation of vegetables, fruit and flowers for non-commercial use
- c. leased to individuals, families, groups of individuals and organisations.

Q61 Do you agree with the definition of an allotment site and allotment plot? How else would you suggest they be defined?

Q62 In order to include all existing allotments in the new legislation they must fit within the size range. What is the minimum and maximum size of one allotment plot in your area/site?

#### Local Authority Duty to Provide Allotments

173. Under existing legislation, where the local authority considers there to be a demand for allotments in their area, it is under a duty to acquire any suitable land for the purpose of letting as allotments. We intend to retain a similar duty which is set out in this section. Respondents to the Allotments consultation indicated that provision of allotments by the local authority should be linked to and triggered by demand.

174. Under our proposals, local authorities will be required to maintain waiting lists for allotments.

#### *The duties to provide allotments*

It is proposed that, in an area where there are no local authority allotments, the local authority must make provision once the waiting list reaches 15 people.

Where there are currently local authority allotments, but these are not sufficient to satisfy demand, the local authority will be under a duty to keep waiting lists below a specified target, whether by acquiring land or otherwise.

If either of the above duties are not met, the local authority must be able to demonstrate through the annual allotments report that they are taking all reasonable steps to meet the duty and provide reasons why it has not been possible.

#### *Targets*

175. As set out above, local authorities will be under a duty to take steps to keep their allotment waiting lists to below a set target. Suggestions for appropriate targets are set out below.

- Option (A), the waiting list should be no more than 3 years in length;  
**Or**
- Option (B), the waiting list should be no more than 50% of the current number of allotment plots;  
**Or**
- Option (C), a combination of both Options A and B.

Q63 Do you agree with this duty to provide allotments? Are there any changes you would make? Do you agree with the level of the trigger point, ie that a local authority must make provision for allotments once the waiting list reaches 15 people?

Q64 Do you prefer the target Option A, B or C and why? Are there any other target options you wish to be considered? Do you agree with the level of the targets?

#### Local Authority Duties and Powers to Manage Allotments

176. In order to effectively manage allotment sites, local authorities need a range of powers. They should also be under duties to ensure they provide and manage their allotments appropriately. The following duties and powers are proposed, based on the previous consultation.

## *Proposed Duties*

1. Local authorities must maintain a waiting list which should be regularly reviewed and kept up to date. Any resident expressing a wish in writing to their local authority to have an allotment should be treated as a request to join a waiting list. The local authority must acknowledge this request in writing within 28 days.
2. Local authorities have a duty to produce and publish an annual report which will include:
  - a. Tenancy, size and rent of all let and unlet allotments.
  - b. Size of waiting list.
  - c. Where necessary, details of all steps taken to meet demand for allotments and keep their waiting list below the statutory target.
  - d. Financial report (statement of income and expenses).
3. Local authorities have a duty to produce and publish regulations as necessary for regulating the letting of Allotments under this Act and must provide a free copy on request (see the section headed 'Local Authority Regulations' below).
4. Local authorities have a duty to produce a Food Growing Strategy which will include:
  - a. A list of local authority and non-local authority owned land that has been identified as potential land for allotment sites and other forms of community growing.
  - b. An assessment of suitability of potential sites and production of a plan for future provision of allotments, community growing and related facilities.
  - c. Allotment and community growing requirements for inclusion within new developments.
  - d. Commitment to providing allotment sites within a timeframe determined and specified by the local authority.
  - e. Details of any maintenance requirements on existing sites.
5. A permanent allotment site situated on local authority land is to be protected from closure except in limited circumstances.
6. Other areas of the existing legislation will be updated and consolidated. These include:
  - a. Retaining a duty to provide access to allotments.
  - b. A duty to make any suitable local authority owned buildings available for allotment meetings.

## *Proposed Powers*

7. Land belonging to a local authority not immediately required for the purpose for which it was acquired can, if suitable, be used for the temporary provision of allotments.
8. Local authorities have the power to incur expenses for the purpose of promoting the proper cultivation of allotments, including the promotion of allotments and training.
9. Local authorities have the power to delegate authority of allotments to an appropriate allotment association or group with the landlord retaining the overall responsibility for the site.
  - a. Levels of responsibility of the association or group to be determined by the local authority.
10. Other areas of the existing legislation will be updated and consolidated. These areas include:
  - a. Retaining and updating a power to compulsory purchase and lease land for use as allotments.
  - b. The definition of a 'fair rent'.
  - c. Retaining the power to enter, adapt and let unoccupied land for use as allotments.
  - d. Retaining a power to improve, adapt and maintain land for letting as allotments.
  - e. Retaining a power to remove unauthorised buildings.

Q65 Do you agree with this list of local authority duties and powers? Would you make any changes to the above list?

### Termination of Allotment Tenancies

177. The following areas of the legislation will be updated and consolidated:
- a. Termination of a lease and the timescales involved.
  - b. Right of a plot holder to compensation upon termination of a lease without a specified period of notice.
  - c. Right of a lessor to recover any loss to themselves from the plot holder.

178. Most of the current provisions which relate to the termination of allotment tenancies apply to private allotments as well as those owned or leased by a local authority. We propose to continue to apply the legislation to private allotments in this way.

Q66 Do you think the areas regarding termination of allotment tenancies listed above should be set out in legislation or determined by the local authority at a local level?

Q67 Are there any other areas you feel should apply to private allotments?

## Surplus Produce

179. Surplus produce may be sold with the permission of the local authority but must be non-commercial and all proceeds reinvested back into the site and/or the local community and charities.

180. The local authority will determine whether, and under what circumstances, surplus produce may be sold and outline the details in their Regulations.

Q68 Do you agree that surplus produce may be sold? If you disagree, what are your reasons?

## Local Authority Regulations

181. Respondents to the Allotments consultation indicated that there were a number of areas which would be better determined at a local level rather than through national legislation. Local authorities will have a duty to produce and publish regulations as necessary for regulating the letting of Allotments. We propose the following requirements and suggestions.

### **The Regulations must include:**

1. Rules on the allocation of plots.
2. Payment of rent.
3. Details of rent concessions.
4. Number of plots per plotholder.
5. The conditions under which the plots are to be cultivated.
6. Whether plotholders may construct buildings associated with growing or the keeping of livestock, and of what size.
7. Whether plotholders may sustain small livestock (e.g. chickens, bees) on an allotment plot for domestic use.
8. Details of inspections that could be carried out.
9. Whether, and under what circumstances, surplus produce may be sold.

### **The Regulations may include (but not limited to):**

1. Whether communal buildings may be constructed.
2. Access to allotment site and behaviour.
3. Security.

4. Use of plot, to cover issues such as
  - a. Site rules.
  - b. Dogs.
  - c. Bonfires.
  - d. Trees.
  - e. Water conservation.
  - f. Barbed wire.
  - g. Personal conduct.
  - h. Organic principles.
  - i. Pathways.
  - j. Fences.

Q69 Do you agree with this list of subjects to be governed by Regulations? Would you make any changes to the above lists?

#### **4.4 Local relief schemes for non-domestic (business) rates**

182. The Scottish Government recognises that supporting business to flourish is a key strand in enabling people to live in resilient communities and sustainable places.

183. The recent consultation on business rates reform, “Supporting Business, Promoting Growth”<sup>10</sup> included a proposal to create a new power for local reliefs. This would allow councils to create and fund their own localised business rate relief schemes to better reflect local needs and support communities. The national poundage rate will still apply and there will be no power for local supplements.

184. Creation of this new power received strong support in the previous consultation, which has been echoed in ongoing stakeholder engagement on rates reform. We therefore intend to include this power in the Community Empowerment (Scotland) Bill.

##### Water and sewerage charges

185. We are also considering options for a new scheme to exempt small and medium-sized third sector organisations from water and sewerage charges. We intend to consult separately on our proposals shortly.

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<sup>10</sup>The consultation paper, responses and analysis can be accessed from the Local Government pages of the Scottish Government’s website, at <http://www.scotland.gov.uk/Topics/Government/local-government/17999/11199>

## Chapter 5 – Wider Policy Proposals

### 5.1 Scotland Performs – embedding the outcomes approach in legislation

186. In June 2013, the Carnegie UK Trust recommended in their report “Shifting the Dial in Scotland” that, to build on their assessment of Scotland being an “international leader in wellbeing measurement”, the Scottish Government should

“Embed Scotland Performs and the National Performance Framework in legislation”.

187. In addition to such a proposal renewing commitment across the public sector to an outcomes-based approach, it would strengthen the link between local outcomes defined in each CPP’s SOA and national outcomes defined by a national outcome framework. A duty on Ministers to develop and consult upon a set of National Outcomes would ensure that a full range of views were taken into account. Consultation between national and local governments, agencies and communities would enhance the line of sight between local operational delivery improvements and partnership working and their impacts and consequences at a national level, improving coordination and collaboration, and ultimately resulting in improved outcomes.

188. The Carnegie UK Trust recommendation includes a proposal that there should be a publicly available overview of Scotland’s progress, very much along the lines of Scotland Performs. Ministers see regular and transparent public reporting as a key element of scrutiny and accountability, and so any legislative provision would be likely to include such a requirement.

189. Ministers therefore invite views upon a proposal, which builds upon the recommendation of the Carnegie UK Trust, that the Community Empowerment (Scotland) Bill should

- include a provision that places a duty on Scottish Ministers to develop, consult on and publish a set of outcomes that describe their long term, strategic objectives for Scotland, and
- include a complementary duty to report regularly and publicly progress towards these outcomes.

#### Consultation question

Q70 We invite your views on this proposal.

## 5.2 Subsidiarity and local decision-making

190. The Government is clear that the people who live and work in Scotland are best-placed to make decisions about our future. This is the essence of self-determination, and accordingly we are committed to subsidiarity and local decision-making in public life.

191. We also recognise that councils are the level of government closest to the citizen, giving people an opportunity to participate in decision-making affecting their everyday environment. Our commitment to local autonomy, self-determination and governance is not only central to our proposals for this Bill, but is also fundamental to our wider approach to public service reform and local government, and recent actions such as establishing the Island Areas Ministerial Working Group and securing cross-border working with councils and other partners in the North of England.

192. Our actions are also guided by the provisions of the European Charter of Local Self-Government<sup>11</sup>. The Charter is a widely recognised articulation of the principles of local autonomy, to which we are bound as an international treaty obligation by ratification in 1998 at the Council of Europe. It commits us to applying basic rules guaranteeing the political, administrative and financial independence of local authorities, and provides that the principle of local self-government will be recognised in domestic legislation and where practicable in the constitution.

193. These positive principles are embedded in the legislative provisions, funding arrangements and significant autonomy that characterise local government in Scotland today. Key to the success of these arrangements is the strong partnership approach between the Scottish Government and local government, building on the concordat signed in 2007, and demonstrated in our commitment to fair budget settlements, large-scale reduction in budget ring-fencing, and joint work with COSLA to improve local outcomes by strengthening community planning.

194. Through these actions the provisions of the European Charter are given renewed life and meaning and our proud tradition of local government is upheld. Indeed, because we recognise that local councils are an integral and essential element of the overall good governance of Scotland, we will argue upon independence for Scotland's Constitution to guarantee the status and rights of elected local government. This Bill provides opportunities for practical measures to complement and strengthen that commitment, so that local communities can really guide and benefit from the continuing reform of public services.

195. As well as this consultation, there will be other relevant debates over the coming weeks and months, including COSLA's own commission on local democracy, and we welcome the wider thinking that these will stimulate as we work towards introduction of this Bill.

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<sup>11</sup> <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=122&CM=1&CL=ENG>

## **Consultation question**

Q71 Given the actions that the Government and others already take to enable and support local democracy, together with the additional measures proposed in this consultation, are there any other actions we could take to reflect local democracy principles that would benefit communities?

## Chapter 6 - Assessing Impact

196. We believe that empowering communities and improving public services will deliver a range of social, economic and environmental benefits for local areas. However, it is important that we understand in more detail the impacts that the options set out in this paper may have. During the consultation period we plan to contact stakeholders to discuss the potential positive and negative effects of our proposals and those that others may suggest. Please use these questions to tell us your views on these issues.

### Equality

197. The Scottish Government is committed to promoting equality and removing or minimising disadvantage which may be experienced by different groups of people. It has a legal duty to consider the impact of policies on people who may be differently affected in relation to the “protected characteristics” under the Equality Act 2010 of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. We also want to consider issues relating to poverty and deprivation, to ensure that all communities are able to access the benefits that the Bill will deliver.

Q72 Please tell us about any potential impacts, either positive or negative, you feel any of the proposals for the Bill may have on particular groups of people, with reference to the “protected characteristics” listed above.

Q73 What differences might there be in the impact of the Bill on communities with different levels of advantage or deprivation? How can we make sure that all communities can access the benefits of these proposals?

### Business and Regulation

198. The Business and Regulatory Impact Assessment analyses whether a policy is likely to increase or reduce the costs and burdens placed on businesses, the public sector and voluntary and community organisations.

Q74 Please tell us about any potential costs or savings that may occur as a result of the proposals for the Bill, and any increase or reduction in the burden of regulation for any sector. Please be as specific as possible.

### Environmental

Q75 Please tell us about any potential impacts, either positive or negative, you feel any of the proposals for the Bill may have on the environment.

## Annex A – How to respond

We want to know your views on the questions set out in this consultation paper. Please send us your response by **24 January 2014**.

There are three ways you can respond to this consultation paper:

1. Use the online questionnaire at <http://www.scotland.gov.uk/Consultations>
2. Send your response by email to [Community.Empowerment@scotland.gsi.gov.uk](mailto:Community.Empowerment@scotland.gsi.gov.uk)
3. Send your response by post to

Community Empowerment Unit  
The Scottish Government  
Area 3-J South  
Victoria Quay  
Edinburgh  
EH6 6QQ

**If you are responding by email or by post please make sure you include your completed Respondent Information Form (see “Handling Your Response” below.)**

You can download or print the Respondent Information Form and a consultation questionnaire from <http://www.scotland.gov.uk/Consultations>

You do not need to answer all the questions in the consultation, if you are only interested in certain topics. The consultation questionnaire is divided according to the chapter headings. We hope you find this helpful. If you choose not to use the questionnaire, please clearly indicate in your response which questions you are responding to. This will help us to analyse the responses.

**If you have any queries please email**  
[Community.Empowerment@scotland.gsi.gov.uk](mailto:Community.Empowerment@scotland.gsi.gov.uk),

**or telephone Scott Sayers on 0131 244 0382.**

### Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library and on the Scottish Government consultation web pages. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

### What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach decisions on what the Bill should say. We aim to issue a report on this consultation process by Spring 2014, and to introduce the Bill to the Scottish Parliament before the end of this Parliamentary year (2013-14).

We expect the Scottish Parliament will take around 9 months to examine the Bill, and then it will take some time to produce guidance and make sure everyone is ready to implement the new law. Visit the website at <http://www.scotland.gov.uk/Topics/People/engage> or follow us on Twitter @CommEmpower to keep up with what's happening.

### Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Alasdair McKinlay  
Community Empowerment Unit  
The Scottish Government  
Victoria Quay  
Edinburgh  
EH6 6QQ

[Alasdair.McKinlay@scotland.gsi.gov.uk](mailto:Alasdair.McKinlay@scotland.gsi.gov.uk)

## The Scottish Government Consultation Process

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government 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.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government 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 issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: Scottish Government consultations (<http://www.scotland.gov.uk/consultations> )

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk> . This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces SG distribution lists, and is designed to allow stakeholders to keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. 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

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

**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.**

## Annex B – Glossary of terms used in Draft Bill

This Glossary explains some words used in the draft Bill that may be unfamiliar, or may have a different meaning when used in law than in everyday use. It is provided to help readers understand what is proposed in the consultation and is not intended to have any force in interpreting current or future law. If a word is not listed here, it has the same meaning in law as its usual dictionary definition.

Existing legislation referred to in the draft Bill can be found on the website [www.legislation.gov.uk](http://www.legislation.gov.uk). You should also be able to access legislation through any local library.

<b>Person</b>	Includes companies, partnerships and other organisations as well as individuals.
<b>Body</b>	Any organisation or group of people.
<b>Corporate or unincorporated</b>	An unincorporated body is a group of people who may act together but do so as individuals. When it becomes corporate (by registering as a company, society, etc) the body is treated in law as a single person.
<b>Land</b>	Includes buildings and other structures, land covered with water, and any right or interest in or over land.
<b>Property</b>	Includes things “corporeal and incorporeal, heritable and moveable” <ul style="list-style-type: none"><li>• Corporeal – real things, such as land, buildings, vehicles, clothing</li><li>• Incorporeal – rights, such as rights in land, intellectual property, money owed to the person</li><li>• Heritable – land and buildings / structures on the land</li><li>• Moveable – everything else; things which can literally be moved, such as furnishings, regalia, and cash.</li></ul>
<b>Assets</b>	An asset is something which has value. In the context of “asset transfer requests”, it is used as another word for land and buildings.
<b>Appeals – allow, dismiss</b>	An appeal is <b>allowed</b> when the person to whom the appeal is made agrees with the person appealing; it is <b>dismissed</b> if they do not agree.
<b>Vary a decision</b>	When a decision is <b>varied</b> , it is amended in part, for example to alter the terms and conditions of the decision.
<b>Severally liable</b>	This means any of the people involved can be required to pay the whole amount of the debt.

**Order  
Regulations**

Orders and Regulations are types of legislation which can be made more quickly than Acts. They may be used for technical detail or other issues that may change often, such as a list of organisations. An Act sets out what Ministers can do by Order or Regulations, and they have to be laid before Parliament before they become law.

**“have regard  
to guidance”**

Guidance issued by Scottish Ministers is not legislation. However, if an organisation is required to “have regard to” guidance, it might be found to have broken the law if it has not followed the guidance, without reason.

## **Annex C – Draft Bill**

# Draft Community Empowerment (Scotland) Bill

[CONSULTATION DRAFT]

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# Draft Community Empowerment (Scotland) Bill

[CONSULTATION DRAFT]

An Act of the Scottish Parliament to confer rights on community bodies in relation to assets of, and services provided by, public bodies; to make provision for establishing a register of common good property; and to enable local authorities to recover additional expenses and interest in respect of work carried out under the Building (Scotland) Act 2003.

## PART 1

### ASSET TRANSFER REQUESTS

#### *Key definitions: Part 1*

#### **1 Meaning of “community body”**

- (1) In this Part, a “community body” means—
  - (a) a body designated as such by an order made by the Scottish Ministers,
  - (b) a company of the type described in subsection (5).
- (2) An order under subsection (1)(a) may designate a body of persons, whether corporate or unincorporated, as a community body.
- (3) Where the power to make an order under subsection (1)(a) is exercised in relation to a trust, the community body is to be the trustees of the trust.
- (4) The Scottish Ministers may by order determine that such community body as may be specified in the order is to cease to be a community body.
- (5) The type of company mentioned in subsection (1)(b) is a company the articles of association of which include the following—
  - (a) a definition of the community to which the company relates,
  - (b) provision that the majority of the members of the company is to consist of members of the community,
  - (c) provision that the members of the company who consist of members of the community have control of the company,
  - (d) provision enabling the company to exercise the right to buy, or otherwise acquire rights, in relation to land,
  - (e) provision that any surplus funds or assets of the company are to be applied for the benefit of the community to which the company relates, and
  - (f) provision that, on the winding up of the company and after satisfaction of its liabilities, its property (including any land, and any rights in relation to land, acquired by it as a result of an asset transfer request under this Act) passes—

- (i) to such other community body as may be approved by the Scottish Ministers, or
  - (ii) if no other community body is so approved, to the relevant authority from whom any such land or rights were so acquired or to such other relevant authority as the Scottish Ministers may direct.
- (6) The articles of association of a company which is a community body may, notwithstanding the generality of paragraph (f) of subsection (5), provide that its property may, in the circumstances mentioned in that paragraph, pass to another person only if that person is a charity.
- (7) In subsection (6), “charity” means a body entered in the Scottish Charity Register.

## 2 Meaning of “relevant authority”

- (1) In this Part, a “relevant authority” means a person listed, or of a description listed, in schedule 1.
- (2) The Scottish Ministers may by order modify schedule 1 so as to—
  - (a) add a person or description of person,
  - (b) remove an entry listed in it,
  - (c) amend an entry listed in it.
- (3) An order under subsection (2)(a) may add a person, or a description of person, only if the person, or (as the case may be) each of the persons within the description, is—
  - (a) a part of the Scottish Administration,
  - (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
  - (c) a publicly-owned company.
- (4) In subsection (3)(c), “publicly-owned company” means a company that is wholly owned by—
  - (a) the Scottish Ministers, or
  - (b) another relevant authority.
- (5) For that purpose, a company is wholly owned—
  - (a) by the Scottish Ministers if it has no members other than—
    - (i) the Scottish Ministers or other companies that are wholly owned by the Scottish Ministers, or
    - (ii) persons acting on behalf of the Scottish Ministers or of such other companies,
  - (b) by another relevant authority if it has no members other than—
    - (i) the relevant authority or other companies that are wholly owned by the authority, or
    - (ii) persons acting on behalf of the relevant authority or of such other companies.
- (6) In this section, “company” includes any body corporate.

*Requests***3 Asset transfer requests**

- (1) A community body may make a request in accordance with this section (in this Part, an “asset transfer request”) to a relevant authority.
- (2) An asset transfer request is a request—
  - (a) in relation to land owned by the relevant authority, for ownership of the land (or part of the land) to be transferred to the community body, or
  - (b) in relation to land owned or leased by the relevant authority—
    - (i) for the land (or part of it) to be leased to the body, or
    - (ii) for the authority to confer rights in respect of the land (or part of it) on the body (including, for example, rights to manage or occupy the land or use it for a purpose specified in the request).
- (3) An asset transfer request must be made in writing.
- (4) A community body making an asset transfer request must specify in the request—
  - (a) the land to which the request relates,
  - (b) whether the request falls within paragraph (a), (b)(i) or (b)(ii) of subsection (2),
  - (c) where the request falls within subsection (2)(a), the price that the body would be prepared to pay for the transfer of ownership of the land,
  - (d) where the request falls within subsection (2)(b)(i)—
    - (i) the amount of rent that the body would be prepared to pay in respect of any lease resulting from the request,
    - (ii) the duration of any such lease, and
    - (iii) any other terms and conditions that the body considers should be included in any such lease,
  - (e) where the request falls within subsection (2)(b)(ii), the nature and extent of the rights sought,
  - (f) any other terms or conditions applicable to the request,
  - (g) the reasons for making the request, and
  - (h) the benefits which the body considers will arise if the authority were to agree to the request.

**4 Asset transfer requests: regulations**

- (1) The Scottish Ministers may by regulations make further provision about asset transfer requests.
- (2) Regulations under subsection (1) may in particular make provision for or in connection with specifying—
  - (a) the manner in which requests are to be made,
  - (b) the procedure to be followed by a relevant authority in relation to requests,
  - (c) the information to be included in requests (in addition to that required under section 3(4)).

*Decisions***5 Asset transfer requests: decisions**

- (1) This section applies where an asset transfer request is made by a community body to a relevant authority.
- (2) The authority must decide whether to agree to or refuse the request.
- (3) In reaching its decision, the authority must take into consideration the following matters—
  - (a) the reasons for the request,
  - (b) any other information provided in support of the request (whether or not such other information is contained in the request or otherwise provided),
  - (c) whether agreeing to the request would be likely to promote or improve—
    - (i) economic development,
    - (ii) regeneration,
    - (iii) public health,
    - (iv) social wellbeing, or
    - (v) environmental wellbeing,
  - (d) any other benefits that might arise if the request were agreed to,
  - (e) any benefits that might arise if the authority were to agree to or otherwise adopt an alternative proposal in respect of the land to which the request relates,
  - (f) how such benefits would compare to any benefits such as are mentioned in paragraphs (c) and (d),
  - (g) how any benefits such as are mentioned in paragraph (e) relate to other matters the authority considers relevant (including, in particular, the functions and purposes of the authority),
  - (h) any obligations imposed on the authority, by or under any enactment or otherwise, that may prevent, restrict or otherwise affect its ability to agree to the request, and
  - (i) such other matters (whether included in or arising out of the request or not) as the authority considers relevant.
- (4) In subsection (3)(e), an “alternative proposal” includes—
  - (a) another asset transfer request,
  - (b) a proposal whether made by the authority or any other person.
- (5) The authority must, within the period mentioned in subsection (6), give notice (in this Part, a “decision notice”) to the body of—
  - (a) its decision to agree to or refuse the request, and
  - (b) the reasons for its decision.
- (6) The period is—
  - (a) a period prescribed in regulations made by the Scottish Ministers, or
  - (b) such longer period as may be agreed between the authority and the body.

- (7) The Scottish Ministers may by regulations make provision about—
  - (a) the information (in addition to that required under this Part) that a decision notice is to contain, and
  - (b) the manner in which a decision notice is to be given.

## **6 Agreement to asset transfer request**

- (1) This section applies where a relevant authority decides to agree to an asset transfer request made by a community body.
- (2) The decision notice relating to the request must—
  - (a) specify the terms on which, and any conditions subject to which, the authority would be prepared to transfer ownership of the land, lease the land or (as the case may be) confer rights in respect of the land to which the request relates (whether or not such terms and conditions were specified in the request),
  - (b) state that, if the body wishes to proceed, it must submit to the authority an offer to acquire ownership of the land, lease the land or (as the case may be) assume rights in respect of the land, and
  - (c) specify the period within which such an offer is to be submitted.
- (3) The period specified under subsection (2)(c) must be a period of at least 6 months beginning with the date on which the decision notice is given.
- (4) An offer such as is mentioned in subsection (2)(b)—
  - (a) must reflect any terms and conditions specified in the decision notice,
  - (b) may include such other reasonable terms and conditions as are necessary or expedient to secure—
    - (i) the transfer of ownership, the lease or (as the case may be) the conferral of rights, and
    - (ii) that such a transfer, lease or (as the case may be) conferral of rights takes place within a reasonable time,
  - (c) must be made before the end of the period specified in the decision notice under subsection (2)(c).
- (5) Where no contract is concluded on the basis of such an offer before the end of the period mentioned in subsection (6), the decision to agree to the request is of no effect (but that is not to be treated as a refusal of the request for the purposes of an appeal under section 8).
- (6) The period is—
  - (a) the period of 6 months beginning with the date of the offer, or
  - (b) such longer period as may be—
    - (i) agreed between the authority and the body, or
    - (ii) directed by the Scottish Ministers under subsection (7).
- (7) Where the authority does not agree to a longer period such as is mentioned in subsection (6)(b)(i), the body may apply to the Scottish Ministers for a direction to extend the period within which the contract is to be concluded.
- (8) An application under subsection (7) may be made on more than one occasion.

- (9) The Scottish Ministers may by regulations make provision about—
  - (a) the form of, and procedure for making, an application for such a direction,
  - (b) the manner in which such a direction is to be given,
  - (c) the information that such a direction is to contain.

## **7 Prohibition on disposal of land**

- (1) Subsection (2) applies—
  - (a) where a relevant authority decides to agree to an asset transfer request made by a community body, and
  - (b) only during the relevant period.
- (2) The authority must not sell, lease or otherwise dispose of the land to which the request relates to any person other than the body.
- (3) In subsection (1), the “relevant period” is the period beginning on the day when the decision notice relating to the request is given and ending—
  - (a) if no offer such as is mentioned in paragraph (b) of subsection (2) of section 6 is made by the final day of the period specified in the decision notice under paragraph (c) of that subsection, on the day after that final day, or
  - (b) if such an offer is made by that final day, on one of the days mentioned in subsection (4).
- (4) The days are—
  - (a) the day on which the authority concludes a contract with the body on the basis of the offer,
  - (b) the day on which the period mentioned in paragraph (a) or (where applicable) paragraph (b) of subsection (6) of section 6 expires with no such contract having been concluded.
- (5) Where, by virtue of subsection (2), a relevant authority is prevented from selling, leasing or otherwise disposing of any land, any contract by virtue of which the authority is obliged to sell, lease or otherwise dispose of the land to a person other than the community body referred to in that subsection is void.

### *Appeals*

## **8 Appeals**

- (1) Subsection (2) applies where—
  - (a) an asset transfer request is refused by a relevant authority,
  - (b) an asset transfer request is agreed to by a relevant authority but the decision notice relating to the request specifies material terms or conditions which differ to a significant extent from those specified in the request, or
  - (c) a relevant authority does not give a decision notice relating to an asset transfer request to the community body making the request within the period mentioned in paragraph (a) or (where applicable) paragraph (b) of section 5(6).
- (2) The community body making the request may appeal to the Scottish Ministers unless the relevant authority is—

- (a) the Scottish Ministers, or
  - (b) a local authority.
- (3) The Scottish Ministers may by regulations prescribe—
- (a) the procedure to be followed in connection with appeals under subsection (2),
  - (b) the manner in which such appeals are to be conducted, and
  - (c) the time limits within which such appeals must be brought.
- (4) The provision that may be made by virtue of subsection (3) includes provision that the manner in which an appeal, or any stage of an appeal, is to be conducted is to be at the discretion of the Scottish Ministers or of a person appointed by them.
- (5) On an appeal under subsection (2), the Scottish Ministers—
- (a) may allow or dismiss the appeal,
  - (b) may reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not),
  - (c) must, in the circumstances mentioned in either paragraph (a) or (b) of subsection (6), issue a direction to the authority requiring the authority to take such steps, or achieve such outcomes, as are specified in the direction within such time periods as are so specified,
  - (d) may, in any other circumstances, issue such a direction, including a direction relating to any aspects of the asset transfer request to which the appeal relates (whether or not the authority's decision relates to those aspects).
- (6) The circumstances are—
- (a) that the appeal is allowed,
  - (b) that any part of the decision of the relevant authority is reversed or varied to the effect that the authority is required to—
    - (i) transfer ownership of any land, lease any land or confer rights in respect of any land, or
    - (ii) agree to the asset transfer request subject to such terms and conditions as may be specified in the direction.
- (7) The references in subsections (5)(b) and (6)(b) to any part of the decision includes any terms and conditions specified in the decision notice relating to the decision.
- (8) A direction issued under subsection (5)(c) must require the relevant authority to issue a further decision notice—
- (a) specifying any terms and conditions subject to which the authority would be prepared to transfer ownership of the land, lease the land or (as the case may be) confer rights in respect of the land, including any terms and conditions required to be included by virtue of the direction,
  - (b) stating that, if the community body wishes to proceed, it must submit an offer to acquire ownership of the land, lease the land or (as the case may be) assume rights in respect of the land to the authority, and
  - (c) specifying the period within which such an offer is to be submitted (which must be at least 6 months beginning with the date the further decision notice was issued).

*Disapplication of certain lease restrictions***9 Disapplication of restrictions in lease of land to relevant authority**

- (1) This section applies where—
  - (a) land is leased to a relevant authority,
  - (b) an asset transfer request is made to the authority by a community body for the authority to—
    - (i) lease the land (or part of the land) to the body, or
    - (ii) confer a right of occupancy on the body in respect of the land (or part of the land),
  - (c) the land is leased to the relevant authority by another relevant authority or by a company that is wholly owned by another relevant authority, and
  - (d) no other person is entitled to occupy the land to which the request relates (whether by virtue of a sub-lease by the authority or otherwise).
- (2) Any restrictions in the lease of the land to which the request relates such as are mentioned in subsection (3) do not apply as between the relevant authority and the person from whom the authority leases the land.
- (3) The restrictions are any restrictions—
  - (a) on the power of the relevant authority to sub-let the land,
  - (b) on the power of the authority to share occupancy of the land,
  - (c) relating to how the land may be used by the authority or any other occupier of the land.
- (4) Nothing in this section affects any restrictions in the lease of the land to the relevant authority on the power of the authority to assign or transfer rights and liabilities under the lease.
- (5) If the relevant authority leases the land to, or confers a right of occupancy in respect of the land on, a community body, the authority continues to be subject to any obligations under the lease of the land to the authority.

*Power to decline subsequent requests***10 Power to decline certain asset transfer requests**

- (1) Subsection (2) applies where—
  - (a) an asset transfer request (a “new request”) relating to land is made to a relevant authority,
  - (b) the new request relates to matters that are the same, or substantially the same, as matters contained in a previous asset transfer request (a “previous request”) made in relation to the land,
  - (c) the previous request was made in the period of two years ending with the date on which the new request is made, and
  - (d) the authority refused the previous request (whether following an appeal or not).
- (2) The relevant authority may decline to consider the new request (but that is not to be treated as a refusal of the new request for the purposes of an appeal under section 8).

- (3) For the purposes of subsection (1)(b), a new request relates to matters that are the same, or substantially the same, as matters contained in a previous request only if both requests, in relation to the land to which they relate, seek (or sought)—
  - (a) transfer of ownership of the land,
  - (b) lease of the land, or
  - (c) the same or substantially the same rights in respect of the land.
- (4) For the purposes of this section, it is irrelevant whether the body making a new request is the same body or a different body from that which made the previous request.

## PART 2

### PUBLIC SERVICE DELIVERY

#### *Key definitions: Part 2*

#### **11 Meaning of “community body”**

- (1) In this Part, “community body” means—
  - (a) a community council established in accordance with Part 4 of the Local Government (Scotland) Act 1973, or
  - (b) a body of persons, corporate or unincorporated, described in subsection (2).
- (2) The body is a body the written constitution of which includes the following—
  - (a) a statement of the body’s aims and purposes,
  - (b) rules governing membership of the body,
  - (c) a description of a community for which an aim or purpose mentioned in paragraph (a) is, or includes, the promotion of a public benefit, and
  - (d) a description of the public benefit.

#### **12 Meaning of “public service authority”**

- (1) In this Part, “public service authority” means a body, office-holder or other person listed, or of a description listed, in schedule 2.
- (2) The Scottish Ministers may by order modify schedule 2 so as to—
  - (a) add a person or description of person,
  - (b) remove an entry listed in it,
  - (c) amend an entry listed in it.
- (3) An order under subsection (2)(a) may add a person, or description of person, only if the person, or (as the case may be) each of persons within the description, is—
  - (a) a part of the Scottish Administration,
  - (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
  - (c) a publicly-owned company.
- (4) In subsection (3)(c), “publicly-owned company” means a company that is wholly owned by—

- (a) the Scottish Ministers, or
  - (b) a public service authority.
- (5) For that purpose, a company is wholly owned—
- (a) by the Scottish Ministers if it has no members other than—
    - (i) the Scottish ministers or other companies that are wholly owned by the Scottish Ministers, or
    - (ii) persons acting on behalf of the Scottish Ministers or of such other companies,
  - (b) by a public service authority if it has no members other than—
    - (i) a public service authority or other companies that are wholly owned by the authority, or
    - (ii) persons acting on behalf of the public service authority or of such other companies.
- (6) In this section, “company” includes any body corporate.
- (7) Subsection (8) applies where the Scottish Ministers make an order under subsection (2)(a).
- (8) The Scottish Ministers may specify in the order a public service that is or may be provided by or on behalf of the person, or (as the case may be) a person of that description, in respect of which a specified outcome may not be specified in a participation request.

#### *Participation requests*

### **13 Participation request**

- (1) A community body may make a request to a public service authority to permit the body to participate in an outcome improvement process.
- (2) In making the request, a community body must—
  - (a) specify an outcome—
    - (i) that results from, or is contributed to by virtue of, the provision of a service provided to the public by or on behalf of the authority, and
    - (ii) that is capable of being improved by the outcome improvement process,
  - (b) set out the reasons why the body considers it should participate in the outcome improvement process,
  - (c) provide details of any knowledge, expertise and experience the body has in relation to the specified outcome, and
  - (d) provide an explanation of the improvement in the specified outcome which the body anticipates may arise as a result of its participation in the process.
- (3) A participation request must be made in writing.
- (4) A participation request may be made jointly by two or more community bodies.
- (5) In this Part—

“outcome improvement process”, in relation to a public service authority, means a process established or to be established by the authority with a view to improving an outcome that results from, or is contributed to by virtue of, the provision of a public service,

“participation request” means a request made under subsection (1),

“public service” means a service provided to the public by or on behalf of a public service authority,

“specified outcome” means an outcome of the type mentioned in subsection (2)(a).

#### **14 Participation requests: regulations**

- (1) The Scottish Ministers may by regulations make further provision about participation requests.
- (2) Regulations under subsection (1) may in particular make provision for or in connection with specifying—
  - (a) the manner in which requests are to be made,
  - (b) the procedure to be followed by public service authorities in relation to requests,
  - (c) the information to be provided in connection with requests (in addition to that required under section 13(2)).
- (3) Regulations under subsection (1) may provide that an outcome may not be specified under section 13(2)(a) if it results from, or is contributed to by virtue of, the provision of such public service as may be specified in the regulations.
- (4) A public service may be specified under subsection (3)—
  - (a) in general, or
  - (b) by reference to—
    - (i) the public service authority by or on behalf of which it is provided,
    - (ii) an area in which the service is provided,
    - (iii) land in respect of which the service is provided,
    - (iv) circumstances, or cases, in which the service is provided.

#### *Decisions about participation requests*

#### **15 Participation requests: decisions**

- (1) This section applies where a participation request is made by a community body to a public service authority.
- (2) The authority must decide whether to agree to or refuse the participation request.
- (3) In reaching its decision under subsection (2), the authority must take into consideration the following matters—
  - (a) the reasons set out in the request under section 13(2)(b),
  - (b) any other information provided in support of the request (whether or not such other information is contained in the request or otherwise provided),

- (c) whether agreeing to the request mentioned in subsection (2) would be likely to promote or improve—
    - (i) economic development,
    - (ii) regeneration,
    - (iii) public health,
    - (iv) social wellbeing, or
    - (v) environmental wellbeing,
  - (d) the nature of the community described in the constitution of the body (see section 11(2)(c)),
  - (e) any other benefits that might arise if the request were agreed to, and
  - (f) any other matter (whether or not included in or arising out of the request) that the authority considers relevant.
- (4) The authority must agree to the request unless there are reasonable grounds for refusing it.
- (5) The authority must, before the end of the period mentioned in subsection (6), give notice (in this Part, a “decision notice”) to the body of—
- (a) its decision to agree to or refuse the request, and
  - (b) if its decision is to refuse the request, the reasons for the decision.
- (6) The period is—
- (a) a period prescribed in regulations made by the Scottish Ministers, or
  - (b) such longer period as may be agreed between the authority and the body.
- (7) The Scottish Ministers may by regulations make provision about—
- (a) the information (in addition to that required under this Part) that a decision notice is to contain, and
  - (b) the manner in which a decision notice is to be given.

## **16 Decision notice: information about outcome improvement process**

- (1) This section applies where a public service authority gives a decision notice agreeing to a participation request by a community body.
- (2) Where the authority at the time of giving the notice has established an outcome improvement process, the decision notice must—
- (a) describe the operation of the outcome improvement process,
  - (b) specify what stage in the process has been reached,
  - (c) explain how and to what extent the body is expected to participate in the process, and
  - (d) if any other person participates in the process, describe how the person participates.
- (3) Where the authority at the time of giving the notice has not established an outcome improvement process, the decision notice must—
- (a) describe how the proposed process is intended to operate,

- (b) explain how and to what extent the body which made the participation request is expected to participate in the proposed process, and
- (c) if any other person is expected to participate in the proposed process, describe how the person is expected to participate.

## **17 Proposed outcome improvement process**

- (1) This section applies where a public service authority gives a community body a decision notice as mentioned in section 16(3).
- (2) The body may make written representations in relation to the proposed outcome improvement process.
- (3) Any representations under subsection (2) must be made before the end of the period of 28 days beginning with the day on which the notice is given.
- (4) Before giving notice under subsection (5), the authority must take into consideration any representations made under subsection (2).
- (5) The authority must, before the end of the period of 28 days beginning with the day after the expiry of the period mentioned in subsection (3), give a notice to the body containing details of the outcome improvement process that is to be established.
- (6) The authority must publish such information about the process as may be specified in regulations made by the Scottish Ministers.
- (7) The authority must publish the information mentioned in subsection (6) on a website or by other electronic means.

### *Outcome improvement processes: establishment and modification*

## **18 Duty to establish and maintain outcome improvement process**

A public service authority that gives notice under section 17(5) must—

- (a) before the end of the period of 90 days beginning with the day on which the notice is given, establish the outcome improvement process in respect of which the notice is given by taking whatever steps are necessary to initiate the process, and
- (b) maintain that process.

## **19 Modification of outcome improvement process**

- (1) This section applies where a public service authority establishes an outcome improvement process under section 18(a) following a participation request by a community body.
- (2) Following consultation with the body, the authority may modify the outcome improvement process.
- (3) Where the outcome improvement process is modified under subsection (2), the authority must publish such information about the modification as may be specified in regulations made by the Scottish Ministers.

*Reporting***20 Reporting**

- (1) This section applies where—
  - (a) a participation request has been made, and
  - (b) the outcome improvement process relating to that request is complete.
- (2) The public service authority that established the process must publish a report—
  - (a) summarising the outcomes of the process, including whether (and, if so, how and to what extent) the specified outcome to which the process related has been improved,
  - (b) describing how and to what extent the participation of the community body that made the participation request to which the process related influenced the process and the outcomes, and
  - (c) explaining how the authority intends to keep the community body and any other persons informed about—
    - (i) changes in the outcomes of the process, and
    - (ii) any other matters relating to the outcomes.
- (3) The authority must publish the report mentioned in subsection (2) on a website or by other electronic means.
- (4) The Scottish Ministers may by regulations make provision about reports published under subsection (2), including the information (in addition to that required under that subsection) that reports are to contain.

*Interpretation of Part 2***21 Interpretation of Part 2**

In this Part—

- “decision notice” is to be construed in accordance with section 15(5),
- “outcome improvement process” has the meaning given by section 13(5),
- “participation request” has the meaning given by section 13(5),
- “public service” has the meaning given by section 13(5),
- “specified outcome” has the meaning given by section 13(5).

**PART 3**

## COMMON GOOD PROPERTY

*Registers***22 Common good registers**

- (1) Each local authority must establish and maintain a register of property which is held by the authority as part of the common good (a “common good register”).
- (2) Before establishing a common good register, a local authority must publish a list of property that it proposes to include in the register.

- (3) The list may be published in such a way as the local authority may determine.
- (4) On publishing a list under subsection (2), the local authority must—
  - (a) notify the bodies mentioned in subsection (5) of the publication, and
  - (b) invite those bodies to make representations in respect of the list.
- (5) The bodies are—
  - (a) any community council established for the local authority's area, and
  - (b) any community body of which the authority is aware.
- (6) In establishing a common good register, a local authority must have regard to—
  - (a) any representations made under subsection (4)(b) by a body mentioned in subsection (5), and
  - (b) any representations made by other persons in respect of the list published under subsection (2).
- (7) Representations as mentioned in subsection (6) may in particular be made in relation to—
  - (a) whether property proposed to be included in the register is part of the common good,
  - (b) the identification of other property which, in the opinion of the body or person making the representation, is part of the common good.
- (8) A local authority must—
  - (a) make arrangements to enable members of the public to inspect, free of charge, its common good register at reasonable times and at such places as the authority may determine, and
  - (b) make its common good register available on a website, or by other electronic means, to members of the public.

### **23 Guidance about common good registers**

- (1) In carrying out any of the duties imposed on it by section 22, a local authority must have regard to any guidance issued by the Scottish Ministers in relation to the duties.
- (2) Before issuing any such guidance, the Scottish Ministers must consult—
  - (a) local authorities,
  - (b) community councils, and
  - (c) such community bodies as the Scottish Ministers think fit.

#### *Disposal and use*

### **24 Disposal and use of common good property: consultation**

- (1) Subsection (2) applies where a local authority is considering—
  - (a) disposing of any property which is held by the authority as part of the common good, or
  - (b) changing the use to which any such property is put.

- (2) Before taking any decision to dispose of, or change the use of, such property the local authority must publish details about the proposed disposal or, as the case may be, the use to which the authority proposes to put the property.
- (3) The details may be published in such a way as the local authority may determine.
- (4) On publishing details about its proposals under subsection (2), the local authority must—
  - (a) notify the bodies mentioned in subsection (5) of the publication, and
  - (b) invite those bodies to make representations in respect of the proposals.
- (5) The bodies are—
  - (a) any community council established for the local authority's area, and
  - (b) any community body that is known by the authority to have an interest in the property.
- (6) In deciding whether or not to dispose of any property held by a local authority as part of the common good, or to change the use to which any such property is put, the authority must have regard to—
  - (a) any representations made under subsection (4)(b) by a body mentioned in subsection (5), and
  - (b) any representations made by other persons in respect of its proposals published under subsection (2).

## **25 Disposal etc. of common good property: guidance**

- (1) In carrying out any of the duties imposed on it by section 24, a local authority must have regard to any guidance issued by the Scottish Ministers in relation to the duties.
- (2) A local authority must have regard to any guidance issued by the Scottish Ministers in relation to the management and use of property that forms part of the common good.
- (3) Before issuing any guidance as mentioned in subsection (1) or (2), the Scottish Ministers must consult—
  - (a) local authorities,
  - (b) community councils, and
  - (c) such community bodies as the Scottish Ministers think fit.

### *Interpretation*

## **26 Interpretation of Part 3**

In this Part—

“community bodies” has the meaning given in section 15(4) of the Local Government in Scotland Act 2003,

“community council” means a community council established by a local authority under Part 4 of the Local Government (Scotland) Act 1973.

**PART 4**

## LIABILITY FOR EXPENSES UNDER BUILDING (SCOTLAND) ACT 2003

**27 Liability for expenses of work under Building (Scotland) Act 2003**

- (1) The Building (Scotland) Act 2003 is amended as follows.
- (2) Before section 44, insert—

**“43A Administrative expenses and interest in connection with carrying out work**

- (1) A local authority may recover from a person who is liable for expenses under section 25(7)(b), 26(3)(b), 27(7)(b), 28(10)(b), 29(2) or (3) or 30(4)(b)—
  - (a) any administrative expenses (including fees in respect of registration) reasonably incurred by the authority in connection with recovering those expenses, and
  - (b) interest at such reasonable rate as the authority may determine on the expenses mentioned in those sections and paragraph (a) in respect of the period beginning on a date specified by the authority and ending when the whole amount of the expenses is paid.
- (2) The date specified under subsection (1)(b) must be after the date on which a demand for payment for the expenses referred to in that subsection is served by the authority.
- (3) In subsection (1)(a), “registration” means registration of—
  - (a) a notice of liability for expenses under section 43B,
  - (b) a notice of discharge under section 43D.
- (4) In this Part, “relevant expenses” means expenses mentioned in section 25(7)(b), 26(3)(b), 27(7)(b), 28(10)(b), 29(2) or (3) or 30(4)(b) or subsection (1)(a) of this section.

**43B Liability of owners and successors for expenses and interest**

- (1) An owner of a building who is liable for relevant expenses or for interest under section 43A(1)(b) does not, by virtue only of ceasing to be such an owner, cease to be liable for those expenses or that interest.
- (2) Subject to subsection (3), where a person becomes the owner of a building (any such person being referred to in this section as a “new owner”) the person is severally liable with any former owner of the building for—
  - (a) any relevant expenses for which the former owner is liable, and
  - (b) any interest for which the former owner is liable under section 43A(1)(b).
- (3) A new owner is liable as mentioned in subsection (2) only if—
  - (a) a notice (in this Part, a “notice of liability for expenses”) in the form prescribed under section 36 is registered in relation to the building, and
  - (b) the notice was registered at least 14 days before the acquisition date.
- (4) A notice of liability of expenses is to specify—
  - (a) the relevant expenses for which the owner of the building is liable,

- (b) the work to which the expenses relate, and
  - (c) whether interest is payable under section 43A(1)(b).
- (5) In this section, “acquisition date” means the date on which the new owner acquired right to the building.
- (6) Where a new owner of a building pays any relevant expenses, or interest, for which a former owner of the building is liable, the new owner may recover the amount so paid from the former owner.
- (7) A person who is entitled to recover an amount under subsection (6) does not, by virtue only of ceasing to be the owner of the building, cease to be entitled to recover that amount.
- (8) This section applies as respects any relevant expenses and interest for which an owner of a building becomes liable on or after the day on which this section comes into force.

#### **43C Notice of liability for expenses: further provision**

- (1) A notice of liability for expenses may be registered only on the application of a local authority.
- (2) A notice of liability for expenses may be registered in respect of—
- (a) expenses relating to more than one set of works carried out on a building,
  - (b) different owners of a building in respect of the expenses of carrying out work on the building.
- (3) The Keeper of the Registers of Scotland is not required to investigate or determine whether the information contained in a notice of liability for expenses submitted for registration is accurate.

#### **43D Discharge of notice of liability for expenses**

- (1) Subsection (2) applies where—
- (a) a notice of liability for expenses in relation to a building is registered,
  - (b) any liability for relevant expenses to which the notice relates has been fully discharged, and
  - (c) any liability under section 43A(1)(b) for interest on such expenses has been fully discharged.
- (2) The local authority which registered the notice must apply to register a notice (in this Part, a “notice of discharge”) in the form prescribed under section 36 stating that liability has been fully discharged.
- (3) On being registered, a notice of discharge discharges the notice of liability for expenses.
- (4) The Keeper of the Registers of Scotland is not required to investigate or determine whether the information contained in a notice of discharge submitted for registration is accurate.

**43E Meaning of “register” in relation to notices**

- (1) In relation to a notice mentioned in subsection (2), “register” means register the information contained in the notice in question in the Land Register of Scotland or, as appropriate, record the notice in question in the Register of Sasines; and “registered” and other related expressions are to be read accordingly.
- (2) The notices are—
  - (a) a notice of liability for expenses,
  - (b) a notice of discharge.”.
- (3) In section 44 (expenses)—
  - (a) in subsection (1)—
    - (i) the words from “of” to the end of the subsection become paragraph (a) of that subsection,
    - (ii) after that paragraph insert—
      - “(b) administrative expenses incurred by the authority in connection with recovering expenses mentioned in paragraph (a) in relation to a building,
      - (c) interest on expenses mentioned in paragraph (a) or (b) relating to a building.”,
  - (b) after subsection (5) insert—
    - “(6) Subsection (3) applies in relation to administrative expenses and interest mentioned in subsection (1)(b) and (c) as it applies in relation to expenses mentioned in that subsection; and subsections (4) and (5) apply accordingly for the purposes of that application.”.
- (4) In section 45 (compulsory purchase where owner cannot be found), after subsection (4) add—
  - “(5) In subsection (1)(b), “expenses” includes administrative expenses, and interest, recoverable under section 43A(1).”.

**PART 5**

## GENERAL

**28 Subordinate legislation**

- (1) Any power of the Scottish Ministers to make an order or regulations under this Act includes a power to make—
  - (a) different provision for different purposes,
  - (b) incidental, supplementary, consequential, transitional or transitory provision or savings.
- (2) An order under section 29(1) containing provisions which add to, replace or omit any part of the text of an Act is subject to affirmative procedure.
- (3) All other orders and regulations under this Act are subject to the negative procedure.
- (4) This section does not apply to orders under section 30(2).

**29 Ancillary provision**

- (1) The Scottish Ministers may by order make such incidental, supplementary, consequential, transitional or transitory provision or savings as they consider necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (2) An order under this section may modify any enactment (including this Act), instrument or document.

**30 Commencement**

- (1) This Part comes into force on the day after Royal Assent.
- (2) The remaining provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.
- (3) An order under subsection (2) may include transitional or transitory provision or savings.

**31 Short title**

The short title of this Act is the Community Empowerment (Scotland) Act 2014.

SCHEDULE 1  
*(introduced by section 2(1))*

RELEVANT AUTHORITIES

The board of management of a college of further education (those expressions having the same meanings as in section 36(1) of the Further and Higher Education (Scotland) Act 1992)

The British Waterways Board

The Crofting Commission

A Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978

Highlands and Islands Enterprise

A local authority

A National Park authority established by virtue of schedule 1 to the National Parks (Scotland) Act 2000

The Police Service of Scotland

The Scottish Court Service

Scottish Enterprise

The Scottish Environment Protection Agency

The Scottish Fire and Rescue Service

The Scottish Ministers

Scottish Natural Heritage

Scottish Water

SCHEDULE 2  
*(introduced by section 12(1))*

PUBLIC SERVICE AUTHORITIES

The board of management of a college of further education (those expressions having the same meanings as in section 36(1) of the Further and Higher Education (Scotland) Act 1992)

A Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978

Highlands and Islands Enterprise

A local authority

A National Park authority established by virtue of schedule 1 to the National Parks (Scotland) Act 2000

The Police Service of Scotland

Scottish Enterprise

The Scottish Environment Protection Agency

The Scottish Fire and Rescue Service

Scottish Natural Heritage



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