



Community Asset Ownership Community Empowerment (Scotland) Act



Outline of this Session

- Journey to the Act
- What is the current position of the Act
- Overview of all Parts of the Act
- Part 5: Asset Transfer
- Questions – discussion on opportunities and issues
- Asset Transfer Route Map - overview

Journey to the Act

- 2008 The Financial Crisis
- 2009 Community Empowerment Action Plan
- 2010 Disposal of Land by Local Authorities (Scotland) Regulations

2010 Disposal of Land Regulations

This gave:

*“discretionary powers to LAs to dispose of land to community organisations **at less than best financial consideration** provided a local authority is satisfied that it is achieving “best value” through economic, social, environment, health or social benefit”*

Journey continues....

- 2011 The Christie Commission
- 2012 Regeneration Strategy
- 2014 Land Reform Review
- 2014 Changes to the Public Finance Manual

2014 Changes to the Scottish Public Finance Manual

“Where there are wider public benefits consistent with the principles of Best Value to be gained from a transaction, disposing bodies should consider disposal of assets at less than Market Value. This includes supporting the acquisition of assets by community bodies, where appropriate.”

Culminating in Community Empowerment (Scotland) Act

Aims:

- To help to empower community bodies through the ownership of land and buildings
- To strengthen their voices in the decisions that matter to them
- To improve the process of Community Planning leading to better outcomes for communities
- Ensure partnership working between service providers and communities

Current position of Act

Bill became enacted in July 24th 2015 BUT!

- The different parts of the Act are likely to come into force at different times.
- In most cases secondary legislation (orders and regulations) and guidance need to be developed before the legislation can come into effect.
- This will be done through a process of engagement and co-production with people affected by the legislation.
- It is expected that most parts of the Act to come into effect by summer 2016.

Several Parts to the Act: 1-4

- **Part 1: National Outcomes** - provides a statutory basis for the use of “National Outcomes”.
- **Part 2: Community Planning** - contains a number of reforms to the system of community planning.
- **Part 3: Participation Requests** - allows community bodies to become involved in delivery of public services.
- **Part 4: Community Right to Buy** - makes a range of changes to the community right to buy land, amending the Land Reform (Scotland) Act 2003 including extending to urban areas.

Several Parts to the Act: 5-8

- **Part 5: Asset Transfer Requests** - provides for community bodies to take on assets from the public sector.
- **Part 6: Delegation of Forestry Commission Functions** - allows for different types of community body to be involved in forestry leasing.
- **Part 7: Football Clubs** – facilitates Supporter Involvement and ownership
- **Part 8 : Common Good** - makes a number of reforms to the system of common good.

Several Parts to the Act: 9-12

- **Part 9: Allotments** – updates and simplifies legislation
- **Part 10: Participation in Public Decision Making** – promotes and facilitates public participation in Public Sector decisions.
- **Part 11: Business Rates** - allows local authorities to set their own reliefs for business rates.
- **Part 12: General:** other relevant info

Part 5: Asset Transfer Requests

Defines:

- what assets can be requested
- To whom a request can be made
- Who can make a request
- What legal structures does a group need to have to make a request
- What does a asset transfer request look like
- What does an asset transfer agreement look like

Part 5: Asset Transfer Requests

What assets can community bodies request:

- a right to request to purchase, lease, manage or use land and buildings belonging to local authorities and other Scottish public bodies
- The assets do not have to be on a “surplus to requirements” list
- Presumption of agreement to requests unless reasonable grounds for refusal

Part 5: Asset Transfer Requests

To whom can a request be made:

- A “relevant authority”

Local Authorities and Scottish Public Sector Organisations listed

e.g. a Health Board, Scottish Fire and Rescue, Scottish Police Authority (CPPs)

- and others that might be added by the Scottish Government in the future

Part 5: Asset Transfer Requests

Who can make a request:

- A “community-transfer body”

Within which there are two distinctions made between:

- what is required to apply for **management/lease**
- what is required for a **full transfer of title.**

Lease/Management Agreement:

Community-Controlled Body: means a body (whether corporate or unincorporated) which has a written constitution that includes -

- a) a definition of the community to which the body relates,
- b) provision that the majority of the members of the body consists of members of that community,
- c) provision that the members of the body, who consist of members of that community, have control of the body

Lease/Management Agreement:

- d) provision that membership of the body is open to any member of that community,
- e) a statement of the body's aims and purposes, including the promotion of a benefit for that community, and
- f) provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

Full Title Transfer:

In addition:

- A limited company with a Dissolution Clause
 - (i) to another community transfer body
 - (ii) to a charity.
- A Scottish Charitable Incorporated Organisation (SCIO)
- A Community Benefit Society (BenComm)

All with no fewer than 20 members

What an asset transfer request must contain

A request must specify:

- the land to which the request relates
- the reasons for making the request
- the benefits which the community transfer body considers will arise

What an asset transfer request must contain

- the price that the community transfer body would be prepared to pay for the transfer of ownership of the land
- In the case of a lease request, they must state the amount of lease and term and any other conditions that they want to include
- any other terms or conditions applicable to the request

and remember..

- The Act does not say anything about how much a community body would be expected to pay.
- The relevant authority **MUST** agree unless there are reasonable grounds for refusal.
- There are regulations in place to allow disposal by public bodies at less than market value.
- Cannot sell or lease to anyone else until request is disposed of.

Asset Transfer request decisions

- A reasonable period of time to resolve the issue is set
- In reaching its decision, the authority must take into consideration the following matters—
 - the reasons for the request,
 - any other information provided in support of the request (whether such other information is contained in the request or otherwise provided),
 - whether agreeing to the request would promote or improve: economic development, regeneration, public health, social or environmental wellbeing

AT request decisions cont.

- whether agreeing to the request would be likely to reduce inequalities of outcome
- any other benefits that might arise if the request were agreed to,
- any benefits that might arise if the authority were to agree to or otherwise adopt an alternative proposal
- how such benefits would compare to any benefits provided by the community proposal

The authority must agree to the request unless there are reasonable grounds for refusing it.

Part 5: Asset Transfer cont'd

- **Appeals**
 - As part of the Asset Transfer Policy
 - Reviewed initially by another group within the public body
 - To Scottish Ministers in certain circumstances
- **Duty to publish register of land**
 - For all land owned by the public body
 - To be made public, free of charge, in hard copy and via electronic means (e.g. website)
- **Annual reports**
 - Published each year on asset transfer requests and decisions
 - Lays out what should be included in the report

Questions

- What opportunities will the Act provide?
- What issues might there be?
- How could the provisions in the Act affect the advice you give?

Community Ownership Advice Tools

- Website:

www.dtascommunityownership.org.uk

- Information booklets:
 - Involving Your Community
 - Beyond the Usual Suspects
 - New ones coming
- Asset Transfer Route Map

Contact us



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