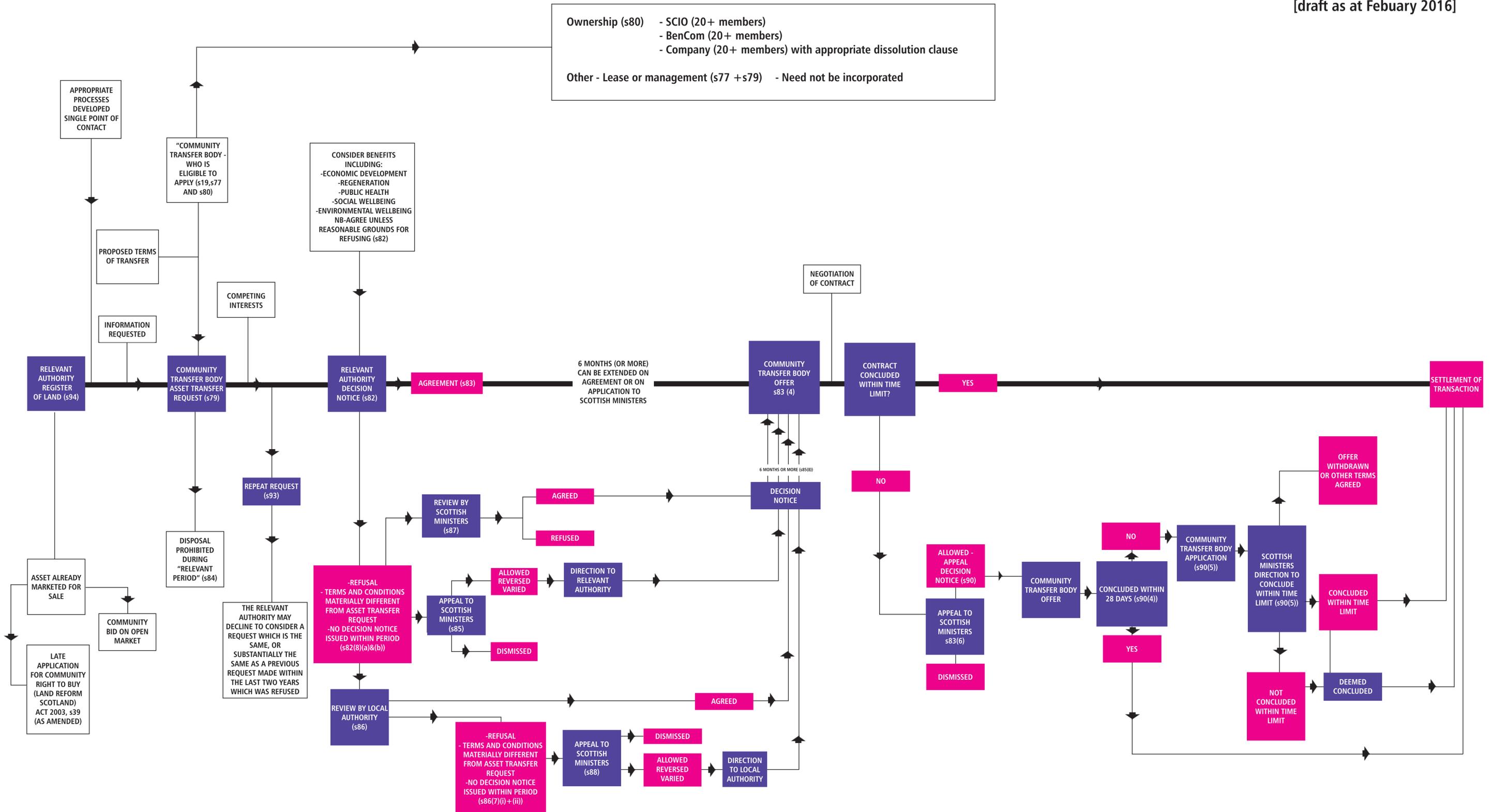


# COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 - PART 5 - ASSET TRANSFER REQUEST

[draft as at February 2016]



- s94 - Land owned or leased by the relevant authority.
- Available for inspection, including electronically.
  - omission from the register does not prevent asset transfer requests (Scottish Ministers may issue guidance).
- s78 - Relevant authorities are listed in Schedule 3 of the CEA2015. The Scottish ministers may modify the Schedule.
- The Scottish ministers may designate a relevant authority by order if it is:
    - part of the Scottish administration.
    - a Scottish public authority; or
    - a publicly owned company wholly owned by 1 or more relevant authorities.
- Schedule 3
- board of management of a college of further education.
  - British Waterways Board.
  - Crofting Commission.
  - a Health Board.
  - Highlands and Islands Enterprise.
  - a local authority.
  - a National Park Authority.
  - The Scottish Courts and Tribunals Service.
  - Scottish Enterprise.
  - SEPA.
  - The Scottish Fire and Rescue Service.
  - The Scottish Ministers.
  - Scottish Natural Heritage.
  - The Scottish Police Authority.
  - Scottish Water.
  - a Special Health Board.
  - a regional Transport Partnership.
- s77 - defines the bodies who may make asset transfer requests (bodies can be designated by order by the Scottish Ministers).
- s80 - states which bodies may request ownership of land and details asset lock provisions.
- s79 - provides that requests for ownership must be by the bodies listed under "ownership" (overleaf).
- s19 - see this section for bodies requesting lease or eg management.
- s79 - States that the asset transfer request must specify:
- land;
  - ownership or lease/other requested;
  - reasons for request;
  - benefits which community transfer body considers will arise if request is agreed to;
  - if ownership, price;
  - if lease; rent, duration and other terms;
  - if other; nature and extent of rights sought;
  - Other terms and conditions.
- s84 - from the day of the asset transfer request to the day on which it is disposed of ("relevant period") the relevant authority must not dispose of land which a request relates to. There are various definitions of disposal and s84(12) denotes exceptions to the prohibition eg pre-existing negotiations.
- s82 - s82 (3) notes the matters which the relevant authority must consider when making its decision. Note s82 (5), being the obligation to agree to the request unless there are reasonable grounds for refusing.
- s82(8) - the relevant authority must give its decision notice within a period yet to be prescribed by the Scottish Ministers.
- s85(8) - the direction from the Scottish Ministers must require the relevant authority to issue a decision notice containing:
- terms of transfer;
  - requiring submission of an offer; and specifying a time limit for submission of the offer (6 months or more from the date of the decision notice).
- s86 - local authority reviews are to be carried out by the authority or a committee or sub-committee, ie not delegated to officers.
- s90 - If the contract following upon the initial offer is not concluded on time the Scottish Ministers can give a direction to the relevant authority to conclude the contract (time limit to be specified in the direction). If the authority still does not conclude the contract (within the time limit) the offer is deemed accepted.
- s95 - Relevant authorities must publish an asset transfer report no later than the 30th June following the end of a reporting year (the year beginning on 1st April)
- setting out the:
- number of asset transfer requests received;
  - number: -agreed to, and -refused;
- number which resulted in:
- transfer of ownership,
  - lease,
  - rights;
- number of appeals:
- allowed,
  - dismissed,
  - which resulted in the authority's decision being varied or reversed;
  - in relation to the local authority and Scottish Ministerial assets the number: - confirmed,
  - modified,
  - substituted by different decision; and
  - any action taken to promote the use of asset transfer requests and support a community transfer body in the making of an asset transfer request

## Notes

The Scottish Ministers may make regulation in relation to a number of matters:

### Asset transfer requests:

- manner.
- procedure.
- information to be included.
- publication.
- notification.
- information requests.

### Decision by relevant authority:

- time limit for issue of decision.
- information to be contained in decision notice.
- manner in which decision notice is given.

### Appeals/Reviews:

- procedure.
- time limits for appeals.
- review personnel (for Scottish Ministers decisions).
- time limits for submission of the offer (post-Appeal Decision Notice).
- time limit for concluding the contract.
- Directions:
  - form and procedure.
  - time limits.