



# Land Reform (Scotland) Act 2003

## 2003 asp 2

### PART 3

#### THE CROFTING COMMUNITY RIGHT TO BUY

### CHAPTER 4

#### APPEALS

## 91 Appeals

- (1) The owner of the land or person entitled to the sporting interests to which an application under section 73 above relates [<sup>F1</sup>(and in the case of an application made by virtue of section 69A(2) above the tenant)] and any other person within subsection (2) below may, by summary application, appeal to the sheriff against Ministers' decision to consent to the application.
- (2) The persons within this subsection are—
  - (a) any person who is a member of the crofting community defined in relation to the applicant crofting community body in pursuance of section 71 above;
  - (b) any person who has any interest in the land [<sup>F2</sup>, lease] or sporting interests giving rise to a right which is legally enforceable by that person; and
  - (c) any person who was invited, under section 73(8)(a) above, to send views to Ministers on the application.
- (3) The applicant crofting community body may, by summary application, appeal to the sheriff against Ministers' decision to refuse its application under section 73 above.
- (4) Subsection (3) above does not extend to Ministers' decision under section 76 above upon which of two or more applications to buy the same land [<sup>F3</sup>or tenant's interest] they should consent to.
- (5) An appeal under subsection (1) or (3) above may be made only on a question of law and shall be lodged within 28 days of the date on which Ministers decided to consent to, or refuse, the application.

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*Changes to legislation: Land Reform (Scotland) Act 2003, Chapter 4 is up to date with all changes known to be in force on or before 24 November 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (6) The sheriff in whose sheriffdom the land [<sup>F4</sup>which is the subject of the application (or as the case may be over which the tenancy has been created)] or any part of it is situated or the sporting interests or any part of them are exercisable has jurisdiction to hear an appeal under this section.
- (7) The sheriff shall dispose of an appeal under this section by ordering that Ministers' decision be adhered to or reversed and such an order shall have the same effect as if it were a decision taken by Ministers on the application.
- (8) Such an order is final.
- (9) Where the effect of such an order is the same as granting the application, the order may be made subject to any condition to which Ministers could have made their decision subject under section 80 above.
- (10) An order having the effect mentioned in subsection (9) above shall be consistent with any decision or findings of the Land Court under sections 77 or 81 above.

**Annotations:**

**Amendments (Textual)**

- F1** Words in s. 91(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(15)(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F2** Words in s. 91(2)(b) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(15)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F3** Words in s. 91(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(15)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F4** Words in s. 91(6) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(15)(d)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

**92 Appeals to Land Court: valuation**

- (1) The owner of land or [<sup>F5</sup>as the case may be the tenant or the] person entitled to the sporting interests the value of which has been assessed under section 88 above and the crofting community body which is exercising its right to buy the land [<sup>F6</sup>, tenant's interest or sporting] interests may appeal to the Land Court against the valuation [<sup>F7</sup>; and if the valuer has made a determination under section 88A(1) above the tenant and that body may so appeal against the determination.].
- (2) An appeal under this section shall state the grounds on which it is being made and shall be lodged within 21 days of the date of notification under section 88(12) above.
- (3) In an appeal under this section, the Land Court may reassess the value of the land or [<sup>F8</sup>as the case may be of the tenant's interest or the sporting interests and may substitute its own determination for any determination under section 88A(1) above.].
- (4) The valuer whose valuation [<sup>F9</sup>or determination] is appealed against may be a witness in the appeal proceedings.
- (5) The Land Court shall give reasons for its decision on an appeal under this section and shall issue a written statement of these reasons within 4 weeks of the hearing of the appeal.

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- (6) The validity of anything done under this Part of this Act is not affected by any failure of the Land Court to comply with the time limit specified in subsection (5) above.
- (7) Ministers are not competent parties to any appeal under this section by reason only that they appointed the valuer whose valuation [<sup>F10</sup>or determination] is the subject of the appeal.

**Annotations:**

**Amendments (Textual)**

- F5** Words in s. 92(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F6** Words in s. 92(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F7** Words in s. 92(1) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F8** Words in s. 92(3) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F9** Words in s. 92(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F10** Words in s. 92(7) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(16)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

**93 Agreement as to matters referred or appealed**

An appeal under sections 91 or 92 above does not prevent the parties from settling or otherwise agreeing the matter in respect of which the appeal was made between or among them.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 74(1)(o)-(r) inserted by 2015 asp 6 s. 65(b)
- s. 81(1)(ba) (bb) inserted by 2015 asp 6 s. 68(a)
- s. 88(9A) (9B) inserted by 2015 asp 6 s. 69(a)
- s. 92(5)(a) (b) substituted for words by 2015 asp 6 s. 71(a)
- s. 92(5A) inserted by 2015 asp 6 s. 71(b)
- s. 92(6A)-(6C) inserted by 2015 asp 6 s. 71(d)
- s. 94(2)(aa) (ab) inserted by 2015 asp 6 s. 72(2)(b)
- s. 94(2A) (2B) inserted by 2015 asp 6 s. 72(3)
- s. 94(3A)-(3C) inserted by 2015 asp 6 s. 72(4)
- s. 97ZA inserted by 2015 asp 6 s. 73