



Community Empowerment (Scotland) Act 2015

2015 asp 6

PART 5

ASSET TRANSFER REQUESTS

Appeals and reviews

87 Review of decisions by the Scottish Ministers

- (1) Subsection (2) applies in a case where—
- (a) an asset transfer request is made to the Scottish Ministers by a community transfer body, and
 - (b) the Scottish Ministers—
 - (i) refuse the request,
 - (ii) agree to the request 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
 - (iii) do not give a decision notice relating to the request to the community transfer body within the period mentioned in paragraph (a) or (where applicable) paragraph (b) of section 82(8).
- (2) On an application made by the community transfer body, the Scottish Ministers must carry out a review of the case.
- (3) The Scottish Ministers may by regulations make provision about reviews carried out under subsection (2) including, in particular, provision in relation to—
- (a) the procedure to be followed in connection with reviews,
 - (b) the appointment of such persons, or persons of such description, as may be specified in the regulations for purposes connected with the carrying out of reviews,
 - (c) the functions of persons mentioned in paragraph (b) in relation to reviews (including a function of reporting to the Scottish Ministers),
 - (d) the manner in which reviews are to be conducted, and

Changes to legislation: There are currently no known outstanding effects for the Community Empowerment (Scotland) Act 2015, Section 87. (See end of Document for details)

- (e) the time limits within which applications for reviews must be brought.
- (4) The provision that may be made by virtue of subsection (3) includes provision that—
 - (a) the manner in which a person appointed by virtue of paragraph (b) of that subsection carries out the person's functions in relation to a review, or any stage of a review, is to be at the discretion of the person,
 - (b) the manner in which a review, or any stage of a review, is to be carried out by the Scottish Ministers is to be at the discretion of the Scottish Ministers.
- (5) Having regard to any report they receive by virtue of subsection (3)(c), the Scottish Ministers may, in relation to a decision reviewed under subsection (2)—
 - (a) confirm the decision,
 - (b) modify the decision, or any part of the decision (including any terms and conditions specified in the decision notice to which the asset transfer request relates), or
 - (c) substitute a different decision for the decision.
- (6) Following a review under subsection (2), the Scottish Ministers must—
 - (a) issue a decision notice as respects the asset transfer request to which the review relates, and
 - (b) provide in the decision notice the reasons for their decision.
- (7) A decision notice issued under subsection (6) replaces any decision notice relating to the asset transfer request in respect of which the review was carried out.
- (8) Subsections (3) to (5) of section 82 apply in relation to a decision relating to an asset transfer request in a review under subsection (2) of this section as they apply in relation to a decision relating to the request under subsection (2) of that section.
- (9) Section 83 applies in relation to a decision to agree to an asset transfer request (including a decision to confirm such an agreement) following a review under subsection (2) as it applies in relation to a decision mentioned in subsection (1) of that section.

Commencement Information

- I1** S. 87(1)(2)(5)-(8) in force at 23.1.2017 by [S.S.I. 2016/363](#), **art. 3(b)**
- I2** S. 87(3)(4)(9) in force at 13.11.2015 for specified purposes by [S.S.I. 2015/358](#), **art. 2, Sch.**
- I3** S. 87(3)(4)(9) in force at 23.1.2017 in so far as not already in force by [S.S.I. 2016/363](#), **art. 3(b)**

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