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

(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)**

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