



Land Reform (Scotland) Act 2016

2016 asp 18

PART 5

RIGHT TO BUY LAND TO FURTHER SUSTAINABLE DEVELOPMENT

Appeals and references

69 Appeals to sheriff

- (1) An owner of land may appeal to the sheriff against a decision by the Scottish Ministers to give consent to an application made under section 54.
- (2) Where such an application is to buy a tenant's interest, the tenant may appeal to the sheriff against a decision by the Scottish Ministers to give consent to the application.
- (3) A Part 5 community body may appeal to the sheriff against a decision by the Scottish Ministers not to give consent to an application made under section 54.
- (4) Subsection (3) does not extend to the Scottish Ministers' decision under section 58 on which of two or more applications made under section 54 to buy the same land or tenant's interest is to proceed.
- (5) A person who is a member of a community (defined under section 49(9)) to which an application relates may appeal to the sheriff against a decision by the Scottish Ministers to give consent to an application made under section 54.
- (6) A creditor in a standard security with a right to sell land may appeal to the sheriff against a decision by the Scottish Ministers to give consent to an application made under section 54.
- (7) An appeal under this section must be lodged within 28 days of the date of the Scottish Ministers' decision on an application made under section 54.
- (8) The sheriff in whose sheriffdom the land 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 has jurisdiction to hear an appeal under this section.
- (9) Where an appeal is made—
 - (a) under subsection (1) the owner must intimate that fact to—

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- (i) the Part 5 community body,
 - (ii) where the application nominates a third party purchaser, the third party purchaser,
 - (iii) where the application is to buy a tenant’s interest, the tenant,
 - (iv) the Scottish Ministers, and
 - (v) any creditor in a standard security with a right to sell the land to which the appeal relates,
- (b) under subsection (2) the tenant must intimate that fact to—
- (i) the Part 5 community body,
 - (ii) where the application nominates a third party purchaser, the third party purchaser,
 - (iii) the owner,
 - (iv) the Scottish Ministers, and
 - (v) any creditor in a standard security with a right to sell the land to which the appeal relates,
- (c) under subsection (3) the Part 5 community body must intimate that fact to—
- (i) where the application nominates a third party purchaser, the third party purchaser,
 - (ii) the owner,
 - (iii) where the application is to buy a tenant’s interest, the tenant,
 - (iv) the Scottish Ministers, and
 - (v) any creditor in a standard security with a right to sell the land to which the appeal relates,
- (d) under subsection (5) the member of the community must intimate that fact to—
- (i) the Part 5 community body,
 - (ii) where the application nominates a third party purchaser, the third party purchaser,
 - (iii) the owner,
 - (iv) where the application is to buy a tenant’s interest, the tenant,
 - (v) the Scottish Ministers, and
 - (vi) any creditor in a standard security with a right to sell the land to which the appeal relates,
- (e) under subsection (6) the creditor must intimate that fact to—
- (i) the Part 5 community body,
 - (ii) where the application nominates a third party purchaser, the third party purchaser,
 - (iii) the owner,
 - (iv) where the application is to buy a tenant’s interest, the tenant, and
 - (v) the Scottish Ministers.
- (10) The decision of the sheriff in an appeal under this section—
- (a) may require rectification of the New Register,
 - (b) may impose conditions upon the appellant,
 - (c) is final.

70 Appeals to Lands Tribunal: valuation

- (1) The following persons may appeal to the Lands Tribunal against a valuation carried out under section 65—
 - (a) the owner of the land,
 - (b) where the application is to buy a tenant's interest, the tenant,
 - (c) the Part 5 community body,
 - (d) where the application nominates a third party purchaser, the third party purchaser.
- (2) The following persons may appeal to the Lands Tribunal against a determination carried out under section 66—
 - (a) the tenant,
 - (b) the Part 5 community body,
 - (c) where the application nominates a third party purchaser, the third party purchaser.
- (3) An appeal under this section must state the grounds on which it is being made and must be lodged within 21 days of the date of receiving notice of assessed value under section 65(13).
- (4) In an appeal under this section, the Lands Tribunal may—
 - (a) reassess the value of the land or, as the case may be, the tenant's interest,
 - (b) substitute its own determination for any determination under section 66.
- (5) The valuer whose valuation or determination is appealed against may be a witness in the appeal proceedings.
- (6) The Lands Tribunal must give reasons for its decision on an appeal under this section and must issue a written statement of those reasons—
 - (a) within 8 weeks of the hearing of the appeal, or
 - (b) where subsection (7) applies, by such later date referred to in paragraph (b)(ii) of that subsection.
- (7) This subsection applies where—
 - (a) the Lands Tribunal considers that it is not reasonable to issue a written statement by the time limit specified in subsection (6)(a), and
 - (b) before the expiry of that time limit, the Lands Tribunal has notified the parties to the appeal—
 - (i) that the Lands Tribunal is unable to issue a written statement by that time limit, and
 - (ii) of the date by which the Lands Tribunal will issue such a written statement.
- (8) The validity of anything done under this Part is not affected by any failure of the Lands Tribunal to issue a written statement by the date referred to in subsection (6)(a) or (7)(b)(ii).
- (9) Where a person appeals under subsection (1) or (2), the person must, within 7 days of the date on which the appeal is made, notify the Scottish Ministers in writing of—
 - (a) the making of the appeal, and
 - (b) the date of the making of the appeal.

- (10) The Lands Tribunal must send a copy of the written statement of reasons issued under subsection (6) to the Scottish Ministers.
- (11) Failure to comply with subsection (9) or (10) has no effect on—
 - (a) the right to buy of the Part 5 community body or, as the case may be, of the third party purchaser, or
 - (b) the validity of the appeal under this section.
- (12) The Scottish Ministers are not competent parties to any appeal under this section by reason only that they appointed the valuer whose valuation or determination is the subject of the appeal.
- (13) The Scottish Ministers' powers under the Lands Tribunal Act 1949 to make rules as respects that Tribunal extend to such rules as may be necessary or expedient to give full effect to this section.

71 Reference to Lands Tribunal of questions on applications

- (1) At any time before the Scottish Ministers reach a decision on an application which has been made under section 54 the following persons may refer to the Lands Tribunal any question relating to the application—
 - (a) the Scottish Ministers,
 - (b) any person who is a member of the community as defined in section 49 in relation to the applicant Part 5 community body,
 - (c) the owner of the land,
 - (d) where the application is to buy a tenant's interest, the tenant,
 - (e) any person who has any interest in the land giving rise to a right which is legally enforceable by that person, or
 - (f) any person who is invited, under section 55(1)(a)(v), to send views to the Scottish Ministers on the application.
- (2) In considering any question referred to it under subsection (1), the Lands Tribunal may have regard to any representations made to it by—
 - (a) the applicant Part 5 community body,
 - (b) the owner of the land,
 - (c) where the application is to buy a tenant's interest, the tenant, or
 - (d) any other person who, in the opinion of the Lands Tribunal, appears to have an interest.
- (3) The Lands Tribunal—
 - (a) must advise the Scottish Ministers of its finding on any question so referred, and
 - (b) may, by order, provide that the Scottish Ministers may consent to the application only if they impose, under section 59, such conditions as the Lands Tribunal may specify.
- (4) If the Lands Tribunal considers any question referred to it under this section to be irrelevant to the Scottish Ministers' decision on the application to which it relates, it may decide to give no further consideration to the question and find accordingly.
- (5) Where a person refers a question to the Lands Tribunal under subsection (1), the person must, within 7 days of the date of referring it, notify the Scottish Ministers of—

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- (a) the reference, and
 - (b) the date of reference.
- (6) Failure to comply with subsection (3)(a) or (5) has no effect on—
- (a) the validity of the application under section 54 by the Part 5 community body,
 - (b) the right to buy of the Part 5 community body or, as the case may be, of the third party purchaser, or
 - (c) the validity of the reference under subsection (1).

72 Agreement as to matters appealed

An appeal under section 69 or 70 does not prevent the parties from settling or otherwise agreeing the matter in respect of which the appeal was made between or among them.