Land Reform (Scotland) Act 2016

2016 asp 18

PART 5

RIGHT TO BUY LAND TO FURTHER SUSTAINABLE DEVELOPMENT

Procedure following consent

64 Completion of transfer

(1) The consideration for the transfer of the land or for the assignation of the tenant's interest is its value as assessed under section 65.

(2) Subject to subsections (3) to (5), that consideration must be paid not later than the date (the "final settlement date") falling 6 months after the date (the "consent date") when the Scottish Ministers consented to the application made under section 54.

(3) Where—

(a) the Part 5 community body or, as the case may be, the third party purchaser and the owner or, as the case may be, the tenant so agree, the consideration may be paid on a date later than the final settlement date,

(b) the assessment of the valuation of the land or the tenant's interest under section 65 or, as the case may be, a determination under section 66 has not been completed by a date 4 months after the consent date, the consideration must be paid not later than 2 months after the date when that assessment is completed or the date when that determination is made, whichever occurs later,

(c) that valuation or, as the case may be, determination under section 66 is the subject of an appeal which has not been decided within 4 months of the consent date, the consideration must be paid not later than 2 months after the date of the decision on the appeal against the valuation or, as the case may be, the determination, whichever occurs later.

(4) The Scottish Ministers may, on the application of any of the parties, extend the final settlement date—

(a) in relation to an application to buy land, where an appeal is made—

(i) under section 69 in respect of the Scottish Ministers' decision on a related application to buy a tenant's interest,

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(ii) under section 70(1) in respect of a valuation of that tenant's interest, or

(iii) under section 70(2) in respect of a determination carried out under section 66 concerning that related application,

(b) in relation to an application to buy a tenant's interest, where an appeal is made—

(i) under section 69 in respect of the Scottish Ministers' decision on a related application to buy land, or

(ii) under section 70(1) in respect of a valuation of that land.

(5) If, on the date the consideration is to be paid, the owner is not able to effect the grant of a good and marketable title or, as the case may be, the tenant is not able to assign the tenant's interest—

(a) the consideration, or

(b) if, for any reason, the consideration has not been ascertained, such sum as may be fixed by the valuer appointed under section 65 as a fair estimate of what the consideration might be,

must be consigned into the Lands Tribunal until that title is granted or assignation is effected or the Part 5 community body or, as the case may be, the third party purchaser gives notice to the Tribunal and to the Scottish Ministers of its decision not to proceed to complete the transaction.

(6) The Scottish Ministers must, within 7 days of receipt of notice of a decision not to proceed under subsection (5), acknowledge receipt and send a copy of that acknowledgement to—

(a) the Keeper,

(b) the owner of the land,

(c) where the application is to buy a tenant's interest, the tenant, and

(d) the Part 5 community body or, as the case may be, the third party purchaser.

(7) Except where subsection (5) applies, if the consideration remains unpaid after the date not later than which it is to be paid, the Part 5 community body's or, as the case may be, the third party purchaser's confirmation of intention to proceed made under section 62 in relation to the land or the tenant's interest is to be treated as withdrawn.

(8) Any heritable security which burdened the land or tenant's interest immediately before—

(a) title is granted to the Part 5 community body or, as the case may be, to the third party purchaser, or

(b) the tenant's interest is assigned to the Part 5 community body or, as the case may be, to the third party purchaser,

ceases to do so on the registration in the Land Register of Scotland of the Part 5 community body's or third party purchaser's interest in the land.

(9) Where such a security also burdens—

(a) land other than the land in respect of which title is granted to the Part 5 community body or, as the case may be, to the third party purchaser, or

(b) a tenant's interest other than the tenant's interest assigned to the Part 5 community body or, as the case may be, to the third party purchaser,

the security does not, by virtue of subsection (8), cease to burden that other land.

(10) Unless the creditors in right of any such security otherwise agree, the Part 5 community body or, as the case may be, the third party purchaser must pay to them according to

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their respective rights and preferences any sum which would, but for this subsection, be paid to the owner by the Part 5 community body or the third party purchaser as consideration for the land or the tenant's interest.

(11) Any sum paid by a Part 5 community body or a third party purchaser under subsection (10) must be deducted from the sum which the Part 5 community body or third party purchaser is to pay to the owner as consideration for the land or, as the case may be, to the tenant as consideration for the tenant's interest.

Commencement Information

I1 S. 64 in force at 26.4.2020 by S.S.I. 2020/20, reg. 2, **sch.**

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Changes and effects yet to be applied to :

– specified provision(s) amendment to earlier commencing S.S.I. 2017/299, regs. 5-14, by S.S.I. 2017/370 reg. 34