



# Community Empowerment (Scotland) Act 2015

2015 asp 6

## PART 5

### ASSET TRANSFER REQUESTS

#### *Prohibition on disposal of land*

#### **84 Prohibition on disposal of land**

- (1) Subsection (2) applies where an asset transfer request is made by a community transfer body to a relevant authority.
- (2) During the relevant period, the authority must not sell, lease or otherwise dispose of the land to which the request relates to any person other than the community transfer body.
- (3) In subsection (2), the “relevant period” is the period beginning on the day on which the asset transfer request is made and ending on the day on which the request is disposed of.
- (4) For the purposes of subsection (3), a request is disposed of—
  - (a) if the request is refused by the relevant authority and no appeal under section 85 or 88, or application for review under section 86 or 87, is made by the community transfer body within the time limit applicable to the making of such an appeal or review,
  - (b) if the request is refused after—
    - (i) an appeal under section 85 or 88 is determined, or
    - (ii) a review under section 87 is carried out,
  - (c) if—
    - (i) the request is agreed to,
    - (ii) no offer as mentioned in section 83(2) is made within the time limit applicable to the making of such an offer,

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- (iii) no appeal under section 85 is made within the time limit applicable to the making of such an appeal, and
  - (iv) no application for a review under section 86 or 87 is made within the time limit applicable to the making of such an application,
  - (d) if—
    - (i) the request is agreed to after an appeal under section 85 or 88 is determined, and
    - (ii) no offer as mentioned in section 85(8) is made within the time limit applicable to the making of such an offer,
  - (e) if—
    - (i) the request is agreed to after a review under section 86 is carried out,
    - (ii) no offer as mentioned in section 83(2) is made within the time limit applicable to the making of such an offer, and
    - (iii) no appeal under section 88 is made within the time limit applicable to the making of such an appeal,
  - (f) if—
    - (i) the request is agreed to after a review under section 87 is carried out, and
    - (ii) no offer as mentioned in section 83(2) is made within the time limit applicable to the making of such an offer, or
  - (g) if—
    - (i) the request is agreed to (including after an appeal under section 85 or 88 is determined, or a review under section 86 or 87 is carried out),
    - (ii) an offer as mentioned in section 83(2) or 85(8) is made within the time limit applicable to the making of such an offer, and
    - (iii) subsection (5), (6), (7) or (8) applies.
- (5) This subsection applies where, before the expiry of the period mentioned in paragraph (a) or (where applicable) paragraph (b) of subsection (7) of section 83, a contract is concluded on the basis of an offer as mentioned in subsection (2) of that section or in section 85(8).
- (6) This subsection applies where—
- (a) the period mentioned in paragraph (a) or (where applicable) paragraph (b) of subsection (7) of section 83 expires,
  - (b) no contract is concluded on the basis of an offer as mentioned in subsection (2) of that section or in section 85(8), and
  - (c) an appeal under section 83(6)—
    - (i) is not made within the time limit applicable to the making of such an appeal, or
    - (ii) is timeously made but dismissed.
- (7) This subsection applies where—
- (a) the relevant authority to whom the request is made is the Scottish Ministers,
  - (b) the period mentioned in paragraph (a) or (where applicable) paragraph (b) of subsection (7) of section 83 expires, and
  - (c) no contract is concluded on the basis of an offer as mentioned in subsection (2) of that section or in section 85(8).
- (8) This subsection applies where—

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- (a) the period mentioned in paragraph (a) or (where applicable) paragraph (b) of subsection (7) of section 83 expires,
  - (b) no contract is concluded on the basis of an offer as mentioned in subsection (2) of that section or in section 85(8),
  - (c) an appeal under section 83(6) is allowed, and
  - (d) a condition mentioned in any of paragraphs (a) to (f) of subsection (9) is satisfied.
- (9) The conditions are—
- (a) no offer as mentioned in subsection (4) of section 90 is submitted within the period specified in the appeal decision notice under subsection (3) of that section relating to the appeal,
  - (b) such an offer is submitted within that period and a contract is concluded on the basis of the offer—
    - (i) before the expiry of the period of 28 days beginning on the day on which the offer is submitted, or
    - (ii) within such period as is specified in a direction under subsection (5) of that section (including such period as extended under subsection (6) of that section),
  - (c) no application under subsection (5) of that section is made within the time limit applicable to the making of such applications,
  - (d) such an application is refused,
  - (e) following the giving of a direction under subsection (5) of section 90 in relation to an offer as mentioned in subsection (4) of that section—
    - (i) the offer is withdrawn, or
    - (ii) the community transfer body and the relevant authority conclude a contract on terms and conditions different from those in the offer,
  - (f) the relevant authority is deemed, under subsection (7) of that section, to have accepted such an offer and have concluded a contract with the community transfer body.
- (10) A reference in this section to—
- (a) subsection (2), (6) or (7) of section 83 includes a reference to those subsections as applied—
    - (i) by sections 85(10), 86(9) and 87(9), and
    - (ii) by virtue of section 89(2),
  - (b) section 85 includes a reference to that section as applied by section 88(3),
  - (c) section 86 includes a reference to that section as applied by subsection (2) of, and modified in such application by virtue of subsection (4) of, section 89.
- (11) Where, by virtue of subsection (2), a relevant authority is prevented from selling, leasing or otherwise disposing of any land, any contract by virtue of which the authority is obliged to sell, lease or otherwise dispose of the land to a person other than the community transfer body referred to in that subsection is void.
- (12) Subsection (2) does not apply where, before the date on which the asset transfer request referred to in that subsection is made, the relevant authority or a person acting on behalf of the authority—
- (a) has, in relation to the land to which the request relates, advertised or otherwise exposed the land for sale or lease,

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- (b) has, in relation to the land, entered into negotiations with another person with a view to transferring or leasing the land, or
  - (c) proceeds further with a proposed transfer or lease of the land which was initiated before the date on which the asset transfer request is made.
- (13) The Scottish Ministers may direct that subsection (2) does not apply to such land to which an asset transfer request relates as may be specified in the direction.