



# Land Reform (Scotland) Act 2003

## 2003 asp 2

### PART 2

#### THE COMMUNITY RIGHT TO BUY

### CHAPTER 6

#### APPEALS

## 61 Appeals

- (1) An owner of land may, by summary application, appeal to the sheriff against—
    - (a) a decision by Ministers that a community interest in the land is to be entered in the Register; or
    - (b) a decision by Ministers to give consent to the exercise by a community body of its right to buy the land.
  - (2) A community body may, by summary application, appeal to the sheriff against—
    - (a) a decision by Ministers that its community interest is not to be entered in the Register; or
    - (b) a decision by Ministers not to give consent to the exercise by the community body of its right to buy.
  - (3) A person who is a member of a community <sup>F1</sup>... <sup>F2</sup>... may, by summary application, appeal to the sheriff against—
    - (a) a decision by Ministers that a community interest in land is to be entered in the Register on the application of the community body; or
    - (b) a decision by Ministers to consent to the exercise of the community body's right to buy land.
- [<sup>F3</sup>(3A) A creditor in a standard security with a right to sell land may appeal to the sheriff against—
- (a) a decision by Ministers that a community interest in the land is to be entered in the Register, or

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- (b) a decision by Ministers to give consent to the exercise by a community body of its right to buy the land.]
- (4) An appeal under subsection (1), (2) [<sup>F4</sup>, (3) or (3A)] above shall be lodged within 28 days of the date on which Ministers decided whether to enter the community interest or, as the case may be, whether to consent to the exercise of the right to buy land.
- (5) The sheriff in whose sheriffdom the land or any part of it is situated has jurisdiction to hear an appeal under this section.
- (6) Where an appeal is made—
- (a) under subsection (1) above the owner shall intimate that fact to—
    - (i) the community body; <sup>F5</sup>...
    - (ii) Ministers; [<sup>F6</sup>and
    - (iii) any creditor in a standard security with a right to sell the land to which the appeal relates;]
  - (b) under subsection (2) above the community body shall intimate that fact to—
    - (i) the owner; <sup>F7</sup>...
    - (ii) Ministers; [<sup>F8</sup>and
    - (iii) any creditor in a standard security with a right to sell the land to which the appeal relates;]
  - (c) under subsection (3) above the member of the community shall intimate that fact to—
    - (i) the community body;
    - (ii) the owner; <sup>F9</sup>...
    - (iii) Ministers [<sup>F10</sup>and
    - (iv) any creditor in a standard security with a right to sell the land to which the appeal relates;][<sup>F11</sup>or
  - (d) under subsection (3A) above, the creditor must intimate that fact to—
    - (i) the community body,
    - (ii) the owner, and
    - (iii) Ministers.]
- (7) The decision of the sheriff in an appeal under this section—
- (a) may require rectification of the Register;
  - (b) may impose conditions upon the appellant;
  - (c) is final.
- [<sup>F12</sup>(8) In this section, references to the community are, as respects a community body, references to—
- (a) the community defined in relation to that body under section 34(1)(a), (1A) (a) or (1B)(a); or
  - (b) where that body is a body mentioned in section 34(A1)(b), the community to which that body relates.
- (9) In subsection (3), the references to the community body are to the community body—
- (a) in relation to which the community is defined as mentioned in subsection (8) (a); or
  - (b) that relates to the community as mentioned in subsection (8)(b).]

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### Textual Amendments

- F1** Words in s. 61(3) repealed (15.4.2016) by [The Community Empowerment \(Scotland\) Act 2015 \(Consequential Modifications and Savings\) Order 2016 \(S.S.I. 2016/28\)](#) , arts. 1(1) , **2(3)(a)** (with art. 3 )
- F2** Words in s. 61(3) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , s. 142(1) , **Sch. 5** ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F3** S. 61(3A) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 58(a)** , 142(1) ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F4** Words in s. 61(4) substituted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 58(b)** , 142(1) ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F5** Word in s. 61(6)(a) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 58(c)(i)** , 142(1) ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F6** S. 61(6)(a)(iii) and word inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 58(c)(ii)** , 142(1) ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F7** Word in s. 61(6)(b) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 58(c)(iii)** , 142(1) ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F8** S. 61(6)(b)(iii) and word substituted for word (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 58(c)(iv)** , 142(1) ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F9** Word in s. 61(6)(c) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 58(c)(v)** , 142(1) ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F10** S. 61(6)(c)(iv) and word inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 58(c)(vi)** , 142(1) ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F11** S. 61(6)(d) and word inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 58(c)(vii)** , 142(1) ; [S.S.I. 2015/399](#) , art. 2 , Sch. (with art. 3 )
- F12** S. 61(8)(9) inserted (15.4.2016) by [The Community Empowerment \(Scotland\) Act 2015 \(Consequential Modifications and Savings\) Order 2016 \(S.S.I. 2016/28\)](#) , arts. 1(1) , **2(3)(b)** (with art. 3 )

## 62 Appeals to Lands Tribunal: valuation

- (1) The owner of the land and the community body which is exercising its right to buy the land may appeal to the Lands Tribunal against the valuation carried out under section 59 above.
- (2) An appeal under this section shall state the grounds on which it is being made and shall be lodged within 21 days of the date of notification under section 60 above.
- (3) In an appeal under this section, the Lands Tribunal may reassess the value of—
  - (a) the land;
  - (b) any moveable property used in connection with, and being sold with, the land; or
  - (c) both the land and any such moveable property.
- (4) The valuer whose valuation is appealed against may be a witness in the appeal proceedings.

<sup>F13</sup>(5) .....

<sup>F13</sup>(6) .....

- (7) The Lands Tribunal shall give reasons for its decision on an appeal under this section and issue a written statement of those reasons <sup>F14</sup>...<sup>F15</sup>

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- (a) within 8 weeks of hearing the appeal, or
- (b) where subsection (7A) applies, by such later date referred to in paragraph (b) (ii) of that subsection.]

[<sup>F16</sup>(7A) This section applies where—

- (a) the Lands Tribunal considers that it is not reasonable to issue a written statement mentioned in subsection (7) by the time limit specified in paragraph (a) of that subsection, and
- (b) before the expiry of that time limit, the Lands Tribunal has notified the parties to the appeal—
  - (i) that the Tribunal is unable to issue a written statement by that time limit, and
  - (ii) of the date by which the Tribunal will issue such a written statement.]

(8) The validity of anything done under this Part of this Act is not affected by any failure of the Lands Tribunal [<sup>F17</sup>—

- (a) to comply with the time limit specified in paragraph (a) of subsection (7) above, or
- (b) to issue a written statement by the date referred to in paragraph (b) of that subsection.]

[<sup>F18</sup>(8A) Where the owner of the land or the community body appeals under this section, the owner or, as the case may be, the community body must, within 7 days of the date on which the appeal is made, notify Ministers in writing of—

- (a) the making of the appeal, and
- (b) the date of the making of the appeal.

(8B) The Lands Tribunal must send a copy of the written statement of reasons issued under subsection (7) to Ministers.

(8C) Failure to comply with subsection (8A) or (8B) has no effect on—

- (a) the community body's right to buy the land, or
- (b) the validity of the appeal.]

(9) Ministers are not competent parties to any appeal under this section by reason only that they appointed the valuer whose valuation is the subject of the appeal.

(10) Ministers' powers under the Lands Tribunal Act 1949 (c. 42) to make rules as respects that Tribunal extend to such rules as may be necessary or expedient to give full effect to this section.

#### Textual Amendments

- F13** S. 62(5) (6) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , s. 142(1) , [Sch. 5](#) ; [S.S.I. 2015/399](#) , [art. 2](#) , [Sch.](#) (with [art. 3](#) )
- F14** Words in s. 62(7) repealed (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , s. 142(1) , [Sch. 5](#) ; [S.S.I. 2015/399](#) , [art. 2](#) , [Sch.](#) (with [art. 3](#) )
- F15** S. 62(7)(a) (b) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , [ss. 59\(2\)](#) , 142(1) ; [S.S.I. 2015/399](#) , [art. 2](#) , [Sch.](#) (with [art. 3](#) )
- F16** S. 62(7A) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , [ss. 59\(3\)](#) , 142(1) ; [S.S.I. 2015/399](#) , [art. 2](#) , [Sch.](#) (with [art. 3](#) )
- F17** S. 62(8)(a) (b) substituted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , [ss. 59\(4\)](#) , 142(1) ; [S.S.I. 2015/399](#) , [art. 2](#) , [Sch.](#) (with [art. 3](#) )

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**F18** S. 62(8A)-(8C) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#) , **ss. 59(5)** , [142\(1\)](#) ; [S.S.I. 2015/399](#) , [art. 2](#) , [Sch. \(with art. 3\)](#)

## **63 Compensation**

- (1) Any person (other than a community body) who has incurred loss or expense—
  - (a) in complying with the procedural requirements of this Part of this Act;
  - (b) as a result of failure by a community body to comply with an order of the Lands Tribunal under section 57 above;
  - (c) attributable to a prohibition imposed under subsection (5)(e) of section 37 above; or
  - (d) as a result of the operation of paragraph (a) or (b) of section 56(3) above,is entitled to compensation from Ministers of such amount as they may determine.
- (2) The reference in subsection (1)(d) above to loss or expense incurred as a result of the operation of paragraph (a) or (b) of section 56(3) above is a reference to loss or expense incurred which would be likely not to have been incurred in a sale of the land to a person who, not being a community body, would not have had the benefit of the provision of those paragraphs.
- (3) Where the community body and the owner of the land agree, under paragraph (c) of section 56(3) above, that the date of entry and payment of price shall be on a date after the last date on which that date could, by the operation of paragraphs (a) or (b) of that section, otherwise have been, no compensation shall be payable for any loss or expense attributable to any period occurring after that last date.
- (4) A person who has incurred loss or expense as a result of the suspension under this Act of a right of pre-emption, redemption or reversion enjoyed by that person is entitled to compensation.
- (5) The procedure for recovering losses and expenses under this section shall be as prescribed.

## **64 Compensation appeals**

- (1) An appeal may be made to the Lands Tribunal against the decision of Ministers on compensation under section 63 above.
- (2) The Lands Tribunal may, on such an appeal, substitute its decision for that of Ministers.
- (3) Such an appeal shall be lodged within 21 days of the decision appealed against.

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**Changes to legislation:**

There are currently no known outstanding effects for the Land Reform (Scotland) Act 2003, Chapter 6.