



Community Empowerment (Scotland) Act 2015

2015 asp 6

PART 5

ASSET TRANSFER REQUESTS

Appeals and reviews

85 Appeals

- (1) Subsection (2) applies where—
- (a) an asset transfer request is refused by a relevant authority,
 - (b) an asset transfer request is agreed to by a relevant authority 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
 - (c) a relevant authority does not give a decision notice relating to an asset transfer request to the community transfer body making the request within the period mentioned in paragraph (a) or (where applicable) paragraph (b) of section 82(8).
- (2) The community transfer body making the request may appeal to the Scottish Ministers unless the relevant authority is—
- (a) the Scottish Ministers,
 - (b) a local authority, or
 - (c) a person, or a person that falls within a class of persons, specified in an order made by the Scottish Ministers for the purposes of this section.
- (3) The Scottish Ministers may by regulations prescribe—
- (a) the procedure to be followed in connection with appeals under subsection (2),
 - (b) the manner in which such appeals are to be conducted, and
 - (c) the time limits within which such appeals must be brought.

Status: This is the original version (as it was originally enacted).

- (4) The provision that may be made by virtue of subsection (3) includes provision that the manner in which an appeal, or any stage of an appeal, is to be conducted is to be at the discretion of the Scottish Ministers.
- (5) On an appeal under subsection (2), the Scottish Ministers—
- (a) may allow or dismiss the appeal,
 - (b) may reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not),
 - (c) must, in the circumstances mentioned in either paragraph (a) or (b) of subsection (6), issue a direction to the authority requiring the authority to take such steps, or achieve such outcomes, as are specified in the direction within such time periods as are so specified,
 - (d) may, in any other circumstances, issue such a direction, including a direction relating to any aspects of the asset transfer request to which the appeal relates (whether or not the authority's decision relates to those aspects).
- (6) The circumstances are—
- (a) that the appeal is allowed,
 - (b) that any part of the decision of the relevant authority is reversed or varied to the effect that the authority is required to—
 - (i) transfer ownership of any land, lease any land or confer rights in respect of any land, or
 - (ii) agree to the asset transfer request subject to such terms and conditions as may be specified in the direction.
- (7) The references in subsections (5)(b) and (6)(b) to any part of the decision includes any terms and conditions specified in the decision notice relating to the asset transfer request.
- (8) A direction issued under subsection (5)(c) must require the relevant authority to issue a further decision notice—
- (a) specifying the terms on which, and any conditions subject to which, the authority would be prepared to transfer ownership of the land, lease the land or (as the case may be) confer rights in respect of the land, including any terms and conditions required to be included by virtue of the direction,
 - (b) stating that, if the community transfer body wishes to proceed, it must submit to the authority an offer to acquire ownership of the land, lease the land or (as the case may be) assume rights in respect of the land, and
 - (c) specifying the period within which such an offer is to be submitted (which must be at least 6 months beginning with the date on which the further decision notice was issued).
- (9) A further decision notice issued by virtue of a direction mentioned in subsection (8) replaces any decision notice relating to the asset transfer request in respect of which the appeal was made.
- (10) Subsections (4) to (10) of section 83 apply in relation to a further decision notice issued by virtue of a direction mentioned in subsection (8) as they apply in relation to a decision notice referred to in that section; but as if in subsection (4) of that section—
- (a) the reference to an offer such as is mentioned in subsection (2)(b) of that section were a reference to an offer such as is mentioned in subsection (8)(b) of this section, and

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- (b) the reference to the period specified in the decision notice under subsection (2) (c) of that section were a reference to the period specified in a further decision notice by virtue of subsection (8)(c) of this section.