



# Land Reform (Scotland) Act 2016

## 2016 asp 18

### PART 5

#### RIGHT TO BUY LAND TO FURTHER SUSTAINABLE DEVELOPMENT

##### *Procedure following consent*

#### **65 Assessment of value of land etc.**

- (1) Where the Scottish Ministers consent to an application made under section 54 they must within 7 days of doing so appoint a valuer, being a person who appears to the Scottish Ministers—
  - (a) to be suitably qualified to consider the matters arising under this section and, as the case may be, under section 66,
  - (b) to be independent, and
  - (c) to have knowledge and experience of valuing land or interests of a kind similar to the land or tenant's interest being bought,to assess the value of the land or tenant's interest to which the application relates.
- (2) The validity of anything done under this section is not affected by any failure by the Scottish Ministers to comply with the time limit specified in subsection (1).
- (3) In assessing the value of land or a tenant's interest in pursuance of an appointment under subsection (1), a valuer—
  - (a) does not act on behalf of the owner of the land, the tenant, the Part 5 community body or, as the case may be, the third party purchaser, and
  - (b) is to act as an expert and not as an arbiter.
- (4) The value to be assessed is the market value of the land or the tenant's interest as at the date when the Scottish Ministers consented to the application made under section 54 relating to the land or the tenant's interest.
- (5) The “market value” of land or a tenant's interest is the aggregate of—
  - (a) the value the land or the tenant's interest would have on the open market as between a seller and a buyer both of whom are, as respects the transaction, willing,

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- (b) any depreciation in the value of other land or interests belonging to the seller which may result from the transfer of the land or the tenant's interest, including depreciation caused by division of the land or interests by the transfer of land to the Part 5 community body or third party purchaser, and
  - (c) the amount attributable to any disturbance to the seller which may arise in connection with the transfer of the land or the tenant's interest to the Part 5 community body or third party purchaser.
- (6) In determining the value which land or a tenant's interest would have on the open market in the circumstances mentioned in subsection (5)(a)—
- (a) the valuer may take account, in so far as a seller and buyer such as are mentioned in subsection (5) would do so, of any factor attributable to the known existence of a person who (not being the Part 5 community body or third party purchaser which is exercising its right to buy) would be willing to buy the land or the tenant's interest at a price higher than others would, because of a characteristic of the land or the tenant's interest which relates peculiarly to that person's interest in buying it,
  - (b) the valuer may not take account of—
    - (i) any depreciation of the type mentioned in subsection (5)(b),
    - (ii) any disturbance of the type mentioned in subsection (5)(c),
    - (iii) the absence of the period of time during which the land or the tenant's interest would, on the open market, be likely to be advertised and exposed for sale.
- (7) The expense of a valuation under this section is to be met by the Scottish Ministers.
- (8) In carrying out a valuation under this section, the valuer must—
- (a) invite—
    - (i) the owner of the land,
    - (ii) where the application is to buy a tenant's interest, the tenant,
    - (iii) the Part 5 community body,
    - (iv) where the application nominates a third party purchaser, the third party purchaser,
 to make representations in writing about the value of the land or tenant's interest, and
  - (b) consider any representations made accordingly.
- (9) Where written representations under subsection (8) are received—
- (a) from the owner of the land or, as the case may be, the tenant, the valuer must invite the Part 5 community body and, as the case may be, the third party purchaser to send views on the representations in writing,
  - (b) from the Part 5 community body or, as the case may be, the third party purchaser, the valuer must invite the owner of the land and, as the case may be, the tenant to send views on the representations in writing.
- (10) In carrying out a valuation under this section, the valuer must consider any views sent under subsection (9).
- (11) Where the Part 5 community body or, as the case may be, the third party purchaser and the owner of the land have agreed the valuation of the land they must notify the valuer in writing of that valuation.

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- (12) Where the Part 5 community body or, as the case may be, the third party purchaser and the tenant have agreed the valuation of the tenant's interest, they must notify the valuer in writing of the valuation.
- (13) The valuer must, within the period set out in subsection (14), give notice of the assessed value of the land or tenant's interest to—
- (a) the Scottish Ministers,
  - (b) the Part 5 community body,
  - (c) where the application nominates a third party purchaser, the third party purchaser,
  - (d) the owner of the land, and
  - (e) where the application is to buy a tenant's interest, the tenant.
- (14) The period referred to in subsection (13) is the period of 8 weeks beginning with the date of appointment of the valuer or such longer period as the Scottish Ministers may, on an application by the valuer, determine.
- (15) The validity of anything done under this Part is not affected by any failure by a valuer to comply with the time limit specified in subsection (14).

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**Commencement Information**

**II** [S. 65](#) 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](#)