



# Land Reform (Scotland) Act 2003

## 2003 asp 2

### PART 2

#### THE COMMUNITY RIGHT TO BUY

### CHAPTER 5

#### VALUATION OF LAND

#### **59 Assessment of value of land**

- (1) Ministers shall, within 7 days of the receipt of a confirmation, sought by them under section 49(2)(a) above, that a community body will exercise its right to buy the land, appoint a valuer, being a person who appears to Ministers to be suitably qualified, independent and to have knowledge and experience of valuing land of a kind which is similar to the land being bought, to assess the value of the land.
- (2) The validity of anything done under this section is not affected by any failure by Ministers to comply with the time limit specified in subsection (1) above.
- (3) In assessing the value of land in pursuance of an appointment under subsection (1) above, a valuer—
  - (a) does not act on behalf of the owner of the land or the community body which is exercising its right to buy the land; and
  - (b) shall act as an expert and not as an arbiter.
- (4) The value to be assessed is the market value of the land—
  - (a) as at the date of notification under section 48(1) above which gave rise to the right to buy the land; or
  - (b) in a case where the community body's interest was registered in pursuance of an application to which section 39 above applied, as at the date of Ministers' receipt of that application.
- (5) Where the land the value of which is to be assessed includes salmon fishings or mineral rights, the value of those fishings or rights shall be separately assessed.

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- (6) The “market value” of land, for the purposes of subsection (4) above, is the aggregate of—
- (a) the value it would have on the open market as between a seller and a buyer both of whom are, as respects the transaction, willing; and
  - (b) where a community body is exercising a right to buy which has arisen in relation to part only of the land in respect of which the owner has given notice under section 48(1) above that a transfer is proposed, the amount of any diminution in the value of the other part of that land which is attributable to the fact that part only of the land is being bought by the body.
- (7) In assessing, for those purposes, the value which land would have in the circumstances mentioned in subsection (6)(a) above—
- (a) account may be taken, insofar as a seller and a buyer of the land such as are mentioned in subsection (6) above would do so, of any factor attributable to the known existence of a person who (not being the community body which is exercising its right to buy the land) would be willing to buy the land at a price higher than other persons because of a characteristic of the land which relates peculiarly to that person’s interest in buying it;
  - (b) no account shall be taken of—
    - (i) the registration of an interest in or the exercise of a right to buy the land by a community body under this Part of this Act;
    - (ii) the absence of the period of time during which the land would, on the open market, be likely to be advertised and exposed for sale;
    - (iii) any depreciation in the value of any other land owned by the seller;
    - (iv) the expenses of the valuation or otherwise related to the sale and purchase of the land.
- (8) Where the proposed transfer which gave rise to a community body’s right to buy land was conditional upon moveable property belonging to the owner of the land and used in connection with it being sold with the land, the appointment of the valuer shall be extended to include the valuation of that moveable property.
- (9) In any case where that appointment is so extended the moveable property shall be valued separately from the land, individual items of moveable property shall be valued separately from each other and the provisions of this section relating to the assessment of the value of land shall, so far as appropriate, apply for the purposes of the valuation of the moveable property.
- (10) The expense of a valuation under this section shall be met by Ministers.

## **60 Procedure for valuation**

- (1) In carrying out a valuation under section 59 above, the valuer shall invite the owner of the land and the community body which is exercising its right to buy the land to make written representations about the value of the land and any moveable property being bought with the land and shall consider any representations made accordingly.

[<sup>F1</sup>(1A) Where written representations under subsection (1) are received—

- (a) from the owner of the land, the valuer must invite the community body which is exercising its right to buy the land to send its views on the representations in writing,

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- (b) from the community body which is exercising its right to buy the land, the valuer must invite the owner of the land to send the owner's views on the representations in writing.
- (1B) In carrying out a valuation under section 59, the valuer must consider any views sent under subsection (1A).]
- (2) The valuer shall, within the period set out in subsection (3) below, notify Ministers, the owner of the land and the community body which is exercising its right to buy the land of the assessed value of the land and of any moveable property which has been valued.
- (3) The period referred to in subsection (2) above is the period of [F28] weeks beginning with the date of appointment of the valuer or such other longer period as Ministers may, on an application by the valuer, fix.
- [F3(3A) An application under subsection (3) must be made within the period of 21 days beginning with the date of appointment of the valuer.
- (3B) Any longer period as mentioned in that subsection must be fixed under that subsection within the period of 7 days beginning with the day on which the application was received.
- (3C) Where such a longer period is fixed, Ministers must notify the persons mentioned in subsection (3D) of—
- (a) the fact that a longer period has been so fixed,
  - (b) the length of the period, and
  - (c) the date on which the period ends.
- (3D) The persons are—
- (a) the community body which is exercising its right to buy the land,
  - (b) the person appointed to conduct the ballot in relation to the land, and
  - (c) the owner of the land.]
- (4) The validity of anything done under this Part of this Act is not affected by any failure by a valuer to comply with the time limit specified in subsection (3) above.

#### Textual Amendments

- F1** S. 60(1A)(1B) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 56(a)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F2** Word in s. 60(3) substituted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 56(b)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)
- F3** S. 60(3A)-(3D) inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), **ss. 53(2)**, 142(1); S.S.I. 2015/399, art. 2, Sch. (with art. 3)

#### [F460A Liability of owner of land for valuation expenses

- (1) Subsection (2) applies where—
- (a) Ministers have received a confirmation sought by them under section 49(2)
    - (a) that a community body will exercise its right to buy land in which it has a registered interest, and

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- (b) after Ministers have appointed a valuer under section 59(1) to assess the value of the land, the owner of the land gives notice under section 54(5) of the owner's decision not to proceed further with the proposed transfer.
- (2) Ministers may require the owner of the land to pay any expense incurred by them in connection with the valuation of the land under section 59 by sending the owner a demand for payment of the expense.
- (3) Where Ministers are considering sending a demand under subsection (2), they may request the owner of the land to provide such information as they consider necessary for the purposes of enabling Ministers to determine whether or not to send the demand.
- (4) The owner of the land may, within 21 days of the receipt of a demand under subsection (2), appeal to the sheriff against the demand.
- (5) The decision of the sheriff in an appeal under subsection (4) is final.
- (6) The owner of the land must pay the amount specified in a demand under subsection (2)
  - (a) within 28 days of receipt, or
  - (b) where an appeal against the demand is made under subsection (4) and not upheld, within 28 days of the determination of the appeal.]

#### **Textual Amendments**

- F4** S. 60A inserted (15.4.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), ss. 57, 142(1); [S.S.I. 2015/399](#), art. 2, Sch. (with art. 3)

**Changes to legislation:**

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