Title Conditions (Scotland) Act 2003

2003 asp 9

PART 8

PRE-EMPTION AND REVERSION

Pre-emption

84 Extinction following offer to sell

(1) If in relation to a right of pre-emption to which this section applies—

(a) an event specified in the constitutive deed as an event on the occurrence of which such right may be exercised occurs; and

(b) the owner of the burdened property makes, in accordance with subsections (2) to (6) below, an offer to sell that property (or, as the case may be, part of that property) to the holder of such right,

then such right shall, in relation to that property (or part), be extinguished unless it is constituted as a rural housing burden in which case the title condition shall be taken to have been complied with as respects that event only.

(2) An offer shall be in writing and shall comply with section 2 of the Requirements of Writing (Scotland) Act 1995 (c. 7) (requirements for formal validity of certain documents).

(3) An offer shall be open for acceptance during whichever is the shorter of—

(a) the period of 21 days, or where the right is constituted as a rural housing burden 42 days, beginning with the day on which the offer is sent;

(b) such number of days beginning with that day as may be specified in the constitutive deed.

(4) An offer shall be made on such terms as may be set out, or provided for, in the constitutive deed; but in so far as no such terms are set out, an offer shall be made on such terms (including any terms so provided for) as are reasonable in the circumstances.

(5) Where—

(a) an offer is sent in accordance with this section; and

(b) the holder of the right does not, within the time allowed by virtue of subsection (3) above for acceptance of the offer, inform (in writing, whether or not transmitted by electronic means) the owner of the burdened property that the holder considers, giving reasons for so considering, that the terms on which the offer is made are unreasonable,

the terms of the offer shall, for the purposes of subsection (4) above, be deemed to be reasonable.

(6) If the holder of a right cannot by reasonable inquiry be identified or found, an offer may be sent to the Extractor of the Court of Session; and for the purposes of this section an offer so sent shall be deemed to have been sent to the holder.