
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 360

The Asset Transfer Request (Appeal Where No Contract Concluded) (Scotland) Regulations 2016

PART 2

Appeals under section 83(6) of the Act

Appeals under section 83(6) of the Act

3.—(1) An appeal to the Scottish Ministers under section 83(6) of the Act is to be made by giving notice in writing in accordance with this regulation.

(2) The notice of appeal must be served on the Scottish Ministers within the period of 10 working days beginning with the expiry of the period specified in section 83(7) of the Act.

(3) The notice of appeal must—

- (a) include the name and contact address of the community transfer body;
- (b) specify the land to which the asset transfer request relates; and
- (c) include a statement setting out full particulars of the appeal including a note of the matters which the community transfer body considers require to be taken into account in determining the appeal and by what, if any, procedure (or combination of procedures) the community transfer body considers the appeal should be conducted.

(4) The notice of appeal must be accompanied by—

- (a) a copy of the offer submitted to the relevant authority by the community transfer body;
- (b) a copy of the decision notice pursuant to which such offer was submitted;
- (c) a copy of all correspondence between the community transfer body and the relevant authority relating to the negotiation of terms and conditions for the transfer of the land to which the asset transfer request relates;
- (d) a statement specifying—
 - (i) the terms on which, and any conditions subject to which, the community transfer body considers the transfer of land should be made; and
 - (ii) how such terms and conditions differ from any terms and conditions specified in the decision notice.

(5) Subject to paragraph (6)—

- (a) all matters which the community transfer body intends to raise in the appeal must be set out in the notice of appeal or in the documents which accompany the notice of appeal; and
- (b) all documents, materials and evidence which the community transfer body intends to rely on in the appeal must accompany the notice of appeal.

(6) In addition to matters set out in the notice of appeal and documents which accompany the notice of appeal, the community transfer body may raise matters and submit further documents, materials or evidence only—

- (a) in accordance with and to the extent permitted by regulation 4(3); or
- (b) where the review panel or the Scottish Ministers make a request for further representations to be made or further information to be provided by the community transfer body (whether under regulation 8(1), rule 1(1) of the Hearing Session Rules or otherwise).

Intimation to relevant authority and relevant authority's response

4.—(1) The community transfer body must at the same time as giving the notice of appeal to the Scottish Ministers send to the relevant authority—

- (a) a copy of the notice of appeal;
- (b) a list of all documents, materials and evidence which the community transfer body intends to rely on in the appeal; and
- (c) a copy of all documents, materials and evidence specified on such list other than any documents, materials or evidence which—
 - (i) the community transfer body has already provided to the relevant authority in connection with the asset transfer request; or
 - (ii) the relevant authority otherwise already holds.

(2) The relevant authority must, before the expiry of the period of 15 working days beginning with the date of receipt of notification of an appeal under paragraph (1), send to the Scottish Ministers and the community transfer body—

- (a) a note (“the relevant authority’s response”) of the matters which the relevant authority considers require to be taken into account in determining the appeal and by what, if any, procedure (or combination of procedures) the relevant authority considers the appeal should be conducted;
- (b) a copy of the documents (other than those specified on the list mentioned in paragraph (1)(b)) which the relevant authority intends to rely on in the appeal; and
- (c) the terms on which, and any conditions subject to which, the relevant authority considers the transfer of land should be made.

(3) The community transfer body may, within the period of 15 working days beginning with the date of receipt of the relevant authority’s response, send to the Scottish Ministers and the relevant authority—

- (a) comments on—
 - (i) any terms and conditions included in the relevant authority’s response by virtue of paragraph (2)(c); and
 - (ii) any other matters raised in the relevant authority’s response; and
- (b) any documents, materials or evidence on which the community transfer body intends to rely in relation to such comments.

(4) In addition to matters set out in the relevant authority’s response and related documents, the relevant authority may raise matters and submit further documents, materials or evidence only in accordance with and to the extent to which the review panel or the Scottish Ministers make a request for further representations to be made or further information to be provided by the relevant authority (whether under regulation 8(1), rule 1(1) of the Hearing Session Rules or otherwise).

Review panel

5.—(1) Where an appeal is made under section 83(6) the Scottish Ministers must appoint 3 persons, no more than one of whom is a member of the staff of the Scottish Ministers, to consider the appeal and report to them on it (“the review panel”).

- (2) Following such consideration the review panel must report—
- (a) their findings in fact and conclusions in respect of the appeal; and
 - (b) their recommendations as to the determination of the appeal,
- to the Scottish Ministers.