



# Community Empowerment (Scotland) Act 2015

2015 asp 6

## PART 5

### ASSET TRANSFER REQUESTS

#### *Decisions*

#### **82 Asset transfer requests: decisions**

- (1) This section applies where an asset transfer request is made by a community transfer body to a relevant authority.
- (2) The authority must decide whether to agree to or refuse the request.
- (3) In reaching its decision, the authority must take into consideration the following matters—
  - (a) the reasons for the request,
  - (b) any other information provided in support of the request (whether such other information is contained in the request or otherwise provided),
  - (c) whether agreeing to the request would be likely to promote or improve—
    - (i) economic development,
    - (ii) regeneration,
    - (iii) public health,
    - (iv) social wellbeing, or
    - (v) environmental wellbeing,
  - (d) whether agreeing to the request would be likely to reduce inequalities of outcome which result from socio-economic disadvantage,
  - (e) any other benefits that might arise if the request were agreed to,
  - (f) any benefits that might arise if the authority were to agree to or otherwise adopt an alternative proposal in respect of the land to which the request relates,
  - (g) how such benefits would compare to any benefits such as are mentioned in paragraphs (c) and (e),

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*Status: This is the original version (as it was originally enacted).*

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- (h) how any benefits such as are mentioned in paragraph (f) relate to other matters the authority considers relevant (including, in particular, the functions and purposes of the authority),
  - (i) any obligations imposed on the authority, by or under any enactment or otherwise, that may prevent, restrict or otherwise affect its ability to agree to the request, and
  - (j) such other matters (whether or not included in or arising out of the request) as the authority considers relevant.
- (4) The authority must exercise the function under subsection (2) in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements.
- (5) The authority must agree to the request unless there are reasonable grounds for refusing it.
- (6) In subsection (3)(f), an “alternative proposal” includes—
- (a) another asset transfer request,
  - (b) a proposal made by the authority or any other person.
- (7) The authority must, within the period mentioned in subsection (8), give notice (in this Part, a “decision notice”) to the community transfer body of—
- (a) its decision to agree to or refuse the request, and
  - (b) the reasons for its decision.
- (8) The period is—
- (a) a period prescribed in regulations made by the Scottish Ministers, or
  - (b) such longer period as may be agreed between the authority and the community transfer body.
- (9) The Scottish Ministers may by regulations make provision about—
- (a) the information (in addition to that required under this Part) that a decision notice is to contain, and
  - (b) the manner in which a decision notice is to be given.

### **83 Agreement to asset transfer request**

- (1) This section applies where a relevant authority decides to agree to an asset transfer request made by a community transfer body.
- (2) The decision notice relating to the request must—
- (a) specify 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 to which the request relates (whether or not such terms and conditions were specified in the request),
  - (b) state 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) specify the period within which such an offer is to be submitted.
- (3) The period specified under subsection (2)(c) must be a period of at least 6 months beginning with the date on which the decision notice is given.

- (4) An offer such as is mentioned in subsection (2)(b)—
  - (a) must reflect any terms and conditions specified in the decision notice,
  - (b) may include such other reasonable terms and conditions as are necessary or expedient to secure—
    - (i) the transfer of ownership, the lease or (as the case may be) the conferral of rights, and
    - (ii) that such a transfer, lease or (as the case may be) conferral of rights takes place within a reasonable time,
  - (c) must be made before the end of the period specified in the decision notice under subsection (2)(c).
- (5) Subsection (6) applies where no contract is concluded on the basis of such an offer before the end of the period mentioned in subsection (7).
- (6) The community transfer body may appeal to the Scottish Ministers under section 90 (except in a case where the relevant authority is the Scottish Ministers).
- (7) The period is—
  - (a) the period of 6 months beginning with the date of the offer, or
  - (b) such longer period—
    - (i) as may be agreed between the authority and the community transfer body, or
    - (ii) in the absence of any such agreement, as may be specified in a direction by the Scottish Ministers.
- (8) A direction under subsection (7)(b)(ii) may be made only on the application of the community transfer body.
- (9) An application under subsection (8) may be made on more than one occasion.
- (10) The Scottish Ministers may by regulations make provision about—
  - (a) the form of, and procedure for making, an application such as is mentioned in subsection (8),
  - (b) the manner in which a direction under subsection (7)(b)(ii) is to be given,
  - (c) the information that such a direction is to contain.