



# Community Empowerment (Scotland) Act 2015

2015 asp 6

## PART 5

### ASSET TRANSFER REQUESTS

#### *Appeals and reviews*

#### **86 Review by local authority**

- (1) Subsection (2) applies in a case where—
  - (a) an asset transfer request is made to a local authority by a community transfer body, and
  - (b) the authority—
    - (i) refuses the request,
    - (ii) agrees to the request but the decision notice relating to the request specifies material terms or conditions which differ to a significant extent from those specified in the request, or
    - (iii) does not give a decision notice relating to the request to the community transfer body within the period mentioned in paragraph (a) or (where applicable) paragraph (b) of section 82(8).
- (2) On an application made by the community transfer body, the local authority must carry out a review of the case.
- (3) The Scottish Ministers may by regulations prescribe—
  - (a) the procedure to be followed in connection with reviews under subsection (2),
  - (b) the manner in which such reviews are to be carried out, and
  - (c) the time limits within which applications for reviews must be brought.
- (4) The provision that may be made by virtue of subsection (3) includes provision that the manner in which a review, or any stage of a review, is to be carried out by a local authority is to be at the discretion of the authority.
- (5) A local authority may, in relation to a decision reviewed under subsection (2)—

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*Status: This is the original version (as it was originally enacted).*

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- (a) confirm its decision,
  - (b) modify its decision, or any part of its decision (including any terms and conditions specified in the decision notice to which the asset transfer request relates), or
  - (c) substitute a different decision for its decision.
- (6) Following a review under subsection (2), the local authority must—
- (a) issue a decision notice as respects the asset transfer request to which the review relates, and
  - (b) provide in the decision notice the reasons for its decision.
- (7) A decision notice issued under subsection (6)—
- (a) replaces any decision notice relating to the asset transfer request in respect of which the review was carried out, and
  - (b) must be issued within—
    - (i) a period prescribed in regulations made by the Scottish Ministers, or
    - (ii) such longer period as may be agreed between the local authority and the community transfer body that made the asset transfer request.
- (8) Subsections (3) to (5) of section 82 apply in relation to a decision relating to an asset transfer request in a review under subsection (2) of this section as they apply in relation to a decision relating to the request under subsection (2) of that section.
- (9) Section 83 applies in relation to a decision to agree to an asset transfer request (including a decision to confirm such an agreement) following a review under subsection (2) as it applies in relation to a decision mentioned in subsection (1) of that section.
- (10) In section 56 of the Local Government (Scotland) Act 1973 (arrangements for the discharge of functions by local authorities), after subsection (6A) insert—
- “(6B) The duty to carry out a review of a case imposed on an authority under section 86(2) of the Community Empowerment (Scotland) Act 2015 (reviews by local authorities of asset transfer requests) must be discharged only by the authority or a committee or sub-committee of the authority; and accordingly no such committee or sub-committee may arrange for the discharge under subsection (2) of the duty by an officer of the authority.
  - (6C) In subsection (6B), the reference to section 86(2) of the Community Empowerment (Scotland) Act 2015 includes a reference to that section as applied by subsection (2) of, and modified in such application by virtue of subsection (4) of, section 89 of that Act.”