



Land Reform (Scotland) Act 2003

2003 asp 2

PART 3

THE CROFTING COMMUNITY RIGHT TO BUY

CHAPTER 3

VALUATION OF CROFT LAND

88 Assessment of value of croft land etc.

- (1) Where Ministers consent to an application under section 73 above, they shall, subject to subsection (2) below, within 7 days of doing so appoint a valuer, being a person who appears to Ministers to be suitably qualified, independent and to have knowledge and experience of valuing land or [^{F1} interests of a kind which is similar to the land, tenant's interest] or sporting interests being bought, to assess the value of the land [^{F2}, tenant's interest] or sporting interests to which the application relates.
- (2) Where Ministers refer a question to the Land Court under section 83(2) above they shall delay appointing the valuer until a day which is within 7 days of the day on which the Land Court makes its determination in respect of that reference.
- (3) 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.
- (4) In assessing the value of land [^{F3}, the interest of a tenant over land] or interests in pursuance of an appointment under subsection (1) above, a valuer—
 - (a) does not act on behalf of the owner of the land [^{F4}, of the tenant, of the person entitled to the sporting interests or of the crofting community body which is exercising its right to buy the land, tenant's interest or sporting] interests under this Part of this Act; and
 - (b) shall act as an expert and not as an arbiter.
- (5) The value to be assessed is the market value of the land [^{F5}, tenant's interest or sporting] interests as at the date when Ministers consented to the application under section 73 relating to the land [^{F6}, interest] or interests.

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- (6) The “market value” of land or interests is the aggregate of—
- (a) the value it [^{F7}, a tenant's interest or sporting] they would have on the open market as between a seller and a buyer both of whom are, as respects the transaction, willing;
 - (b) any depreciation in the value of other land or interests belonging to the seller which may result from the transfer of land [^{F8}, a tenant's interest or sporting interests, including (in the case of land or sporting interests)] depreciation caused by division of the land or interests by the transfer of land or interests to the crofting community body; and
 - (c) the amount attributable to any disturbance to the seller which may arise in connection with the transfer of the land [^{F9}, tenant's interest or sporting] interests to the crofting community body.
- (7) In arriving, for the purposes of this section, at the value which land [^{F10}, a tenant's interest or sporting] interests would have on the open market in the circumstances mentioned in subsection (6)(a) above—
- (a) account may be taken, in so far as a seller and buyer 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 crofting community body which is exercising its right to buy the land or interests) would be willing to buy the land [^{F11}, a tenant's interest or sporting] interests at a price higher than others would because of a characteristic of the land [^{F12}, a tenant's interest or sporting] interests which relates peculiarly to that person's interest in buying it;
 - (b) no account shall be taken of—
 - (i) any depreciation of the type mentioned in subsection (6)(b) above;
 - (ii) any disturbance of the type mentioned in subsection (6)(c) above;
 - (iii) the absence of the period of time during which the land [^{F13}, a tenant's interest or sporting] interests would, on the open market, be likely to be advertised and exposed for sale.
- (8) The expense of a valuation under this section shall be met by Ministers.
- (9) In carrying out a valuation under this section, the valuer shall invite the owner of the land or [^{F14}as the case may be the tenant, or the person entitled to the sporting] interests and the crofting community body which is exercising its right to buy the land [^{F15}, tenant's interest or sporting] interests to make representations in writing about the value of the land [^{F16}, interest] or interests and shall consider any representations made accordingly.
- [^{F17}(9A) Where written representations under subsection (9) are received—
- (a) from the owner of the land, the tenant or the person entitled to the sporting interests, the valuer must invite the crofting community body which is exercising its right to buy the land, tenant's interest or sporting interests to send its views on the representations in writing,
 - (b) from the crofting community body which is exercising its right to buy the land, tenant's interest or sporting interests, the valuer must invite the owner of the land, the tenant or the person entitled to the sporting interests to send the views of the owner, tenant or (as the case may be) person on the representations in writing.
- (9B) In carrying out a valuation under this section, the valuer must consider any views sent under subsection (9A).]

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- (10) Where the crofting community body and the owner of the land or ^{F18}as the case may be the tenant, or the person entitled to the sporting] interests have agreed the valuation of the land ^{F19}the tenant's interest or the sporting] interests they shall notify the valuer in writing of that valuation.
- (11) Where sporting interests in land which the body are seeking to buy are to be leased back to the owner of the land, the valuer shall, in assessing the value of those interests, take account of the terms and conditions of the lease which has been agreed between the owner and the body or, as the case may be, determined by the Land Court under section 83 above.
- ^{F20}(12) The valuer shall, within the period set out in subsection (13) below, notify Ministers, the crofting community body and as the case may be the owner of the land, the tenant or the person entitled to the sporting interests, of the assessed value of the land, tenant's interest or sporting interests; and if there is a determination under section 88A(1) below shall within that period notify the crofting community body and the tenant of the determination.]
- (13) The period referred to in subsection (12) above is the period of ^{F21}8] weeks beginning with the date of appointment of the valuer or such longer period as Ministers may, on an application by the valuer, fix.
- (14) 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 (13) above.

Textual Amendments

- F1** Words in s. 88(1) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F2** Words in s. 88(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F3** Words in s. 88(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(b)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F4** Words in s. 88(4) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(b)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F5** Words in s. 88(5) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F6** Words in s. 88(5) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(c)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F7** Words in s. 88(6) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(d)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F8** Words in s. 88(6)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(d)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F9** Words in s. 88(6)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(d)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F10** Words in s. 88(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F11** Words in s. 88(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F12** Words in s. 88(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F13** Words in s. 88(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.

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- F14** Words in s. 88(9) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(f)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F15** Words in s. 88(9) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(f)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F16** Words in s. 88(9) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(f)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F17** S. 88(9A)(9B) inserted (24.2.2021) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 69(a)**, 142(1); S.S.I. 2020/448, art. 2 (with art. 3)
- F18** Words in s. 88(10) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(g)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F19** Words in s. 88(10) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(g)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F20** S. 88(12) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 39, 43, **Sch. 1 para. 5(12)(h)** (with ss. 40, 43(2)); S.S.I. 2007/269, **art. 2**, Sch.
- F21** Word in s. 88(13) substituted (24.2.2021) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 69(b)**, 142(1); S.S.I. 2020/448, art. 2 (with art. 3)

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