

# TITLE CONDITIONS (SCOTLAND) ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 8: Pre-Emption and Reversion**

##### ***Section 86: Reversions under School Sites Act 1841***

348. The School Sites Act 1841 created a right of reversion in favour of persons (or their successors) who granted land for the building of schools and schoolhouses. The existence of the reversion has caused difficulties in practice.
349. The Act converts all rights of reversion created by the School Sites Act 1841 in existence when this provision comes into force on the day after Royal Assent (see section 129(3)) into rights available under section 86 except where the reversion holder has already completed title to the land. In all other cases the provisions of subsections (2) to (9) apply to replace the right of reversion with the rights available under those provisions.
350. Under the existing law the reversion holder is entitled to the property when it ceases to be used for the purposes mentioned in the 1841 Act. *Subsection (2)* provides that where a third party has already purchased the property from the local authority, the authority shall pay to the reversion holder the open market value of the land as at the day after Royal Assent. If the closing of the school takes place after this provision comes into force, 'improvement value' as defined in subsection (6) will be deducted.
351. *Subsection (3)* provides that where the education authority has not sold the property on, the reversion holder may require the education authority to perform one of the obligations detailed in subsection (4). Essentially, the holder may choose to ask for the land to be conveyed (reflecting the entitlement under the original reversion) or for payment of compensation. Paragraph (b) places a restriction on this: if the holder wishes a conveyance of the land rather than compensation, then the authority can choose to keep the land and instead pay compensation under subsection (4)(a)(ii) or (b)(ii). The authority's choice would have to be 'timeous', which is defined in subsection (8) as notified to the holder no longer than 3 months after the holder requested a conveyance of the land under subsection (3).
352. *Subsection (4)* details the options available to the reversion holder. A distinction is made depending on whether the event which gives rise to the reversion, usually the closure of the school, occurs before or after this section comes into force. If it occurs before this provision comes into force then either the land is conveyed to the holder or the authority pays the holder the open market value of the land as at the date of coming into force without deduction for improvement value. Otherwise improvement value is deducted from the open market value as at the date of cessation of use either by reducing the compensation payable or by requiring payment from the holder of the improvement value when a conveyance is made to the holder. 'Improvement value' is defined in subsection (6).

*These notes relate to the Title Conditions (Scotland) Act  
2003 (asp 9) which received Royal Assent on 3 April 2003*

353. *Subsection (5)* confers jurisdiction on the Lands Tribunal to settle disputes in relation to the valuation of lands and buildings.
354. *Subsection (6)* defines 'improvement value'. The definition classifies improvements as structures erected on the land, excluding those made before the property was originally conveyed under the School Sites Act for educational purposes.
355. The proviso in the School Sites Act giving rise to the reversion was applied by the School Sites Act 1852. *Subsection (7)* construes references to the School Sites Act 1841 as including other enactments which apply it.
356. *Subsection (9)* disapplies the statutory compensation provisions where compensation or a conveyance of the land to the reversion holder has already been agreed.
357. *Subsection (10)* provides that any proceedings already commenced and arising out of the right of reversion created by the 1841 Act are to be deemed abandoned unless a final decree has been granted.