



# Title Conditions (Scotland) Act 2003

## 2003 asp 9

### PART 8

#### PRE-EMPTION AND REVERSION

##### *Reversion*

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

- (1) In a case where—
  - (a) land would, under the third proviso to section 2 of the [School Sites Act 1841 \(4 & 5 Vict. c.38\)](#) (the “1841 Act”) revert (but for this section) to any person or has so reverted; but
  - (b) the person has not, before the day on which this section comes into force, completed title to the land, subsections (2) to (9) below shall (to the extent that subsection (9) admits) apply in place of that proviso and be deemed always to have applied and nothing shall be void or challengeable by virtue of that proviso.
- (2) If the circumstances are that a contract of sale of the land has been concluded by, or on behalf of, the education authority, the authority shall pay to the person, where the cessation of use by virtue of which the land would (but for this section) revert, or has reverted, occurred—
  - (a) before the day on which this section comes into force, an amount equal to the open market value of the land as at that day;
  - (b) on or after that day, an amount equal to the open market value of the land as at the date of cessation less any improvement value as at that date.
- (3) If the circumstances are other than is mentioned in subsection (2) above—
  - (a) the person may specify an obligation mentioned in paragraph (a), or as the case may be (b), of subsection (4) below and require the authority to comply therewith, which subject to paragraph (b) below the authority shall do;
  - (b) the authority may, if the person requires under paragraph (a) above performance of the obligation mentioned in paragraph (a)(i), or as the case may be (b)(i), of that subsection, instead elect to make payment to the person

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- of such amount as is mentioned in paragraph (a)(ii), or as the case may be (b)(ii), of that subsection provided that such election is timeous.
- (4) The obligations are, where the cessation of use by virtue of which the ownership of the land would (but for this section) revert, or has reverted, occurred—
- (a) before the day on which this section comes into force—
    - (i) to convey the land to the person;
    - (ii) to make a payment to the person of an amount equal to the open market value of the land as at that day; or
  - (b) on or after that day—
    - (i) on payment by the person of any improvement value as at the date of cessation, to convey the land to the person;
    - (ii) to make a payment to the person of an amount equal to the open market value of the land as at the date of cessation less any improvement value as at that date.
- (5) Any dispute arising in relation to the assessment of the value for the purposes of this section of any land, buildings or structures may be referred to, and determined by, the Lands Tribunal.
- (6) For the purposes of this section—
- “education authority” has the meaning given by section 135(1) of the Education (Scotland) Act 1980 (c. 44) except that if title to the land has been transferred to any person by any enactment it means that person; and
  - “improvement value” means such part of the value of the land as is attributable to any building (or other structure) on the land other than any such building (or other structure) erected by or at the expense of—
    - (a) the person who made the gift, sale or exchange of the land under section 2 of the 1841 Act; or
    - (b) any predecessor, as owner of such land, of that person.
- (7) References in subsection (1) above to the third proviso to section 2 of the 1841 Act shall be construed as including references to that proviso as applied by virtue of any other enactment; and for the purposes of that construction, the reference in paragraph (a) of the definition of “improvement value” in subsection (6) above to the said section 2 shall be construed as a reference to the provision corresponding to that section in such other enactment.
- (8) The reference in subsection (3)(b) above to an election being timeous is to its being notified to the person within three months after the requirement in question is made.
- (9) Subsections (2) to (8) above do not apply where the person has, before the day on which this section comes into force, accepted an offer of compensation in respect of the land or concluded a contract for, or accepted, a conveyance of the land.
- (10) Subsections (1)(b) and (2) of section 67 of this Act shall apply in relation to any proceedings already commenced by virtue of the proviso mentioned in subsection (1)(a) above as they apply in relation to any proceedings already commenced as mentioned in the said subsection (1)(b).

## **87 Right to petition under section 7 of Entail Sites Act 1840**

- (1) In a case where—

- (a) it would be competent but for this section, section 50(1) of the 2000 Act (disentailment on appointed day) and the repeal of the Entail Sites Act 1840 by that Act for a person to apply by petition under section 7 of that Act of 1840 (petition praying to have feu charter or other right or lease declared to be forfeited etc.); but
  - (b) the person has not, before the day on which this section comes into force, accepted an offer of compensation in respect of the right so to apply,
- subsections (2) to (6) and (8) of section 86 of this Act shall, in place of the said section 7 but with the modifications specified in subsection (2) below, apply.
- (2) The modifications are that—
- (a) for any reference to the education authority there shall be substituted a reference to the parties in whose favour the feu charter or lease was granted, or the successors other than by purchase for value of those parties;
  - (b) in each of subsections (2) and (4), for the word “revert” there shall be substituted “be forfeit” and for the word “reverted” there shall be substituted “have been forfeit”; and
  - (c) in subsection (6), for paragraph (a) of the definition of “improvement value” there shall be substituted—
    - “(a) the person who granted the feu or lease under section 1 of the [Entail Sites Act 1840 \(3 & 4 Vict. c.48\)](#) (grants for sites of churches etc.);”.
- (3) After such obligations as arise by virtue of this section are met or prescribe, the purposes for which the land in question was feued or leased under the said Act of 1840 need no longer be given effect.
- (4) Subsections (1)(b) and (2) of section 67 of this Act shall apply in relation to any application already made by petition as mentioned in subsection (1)(a) above as they apply in relation to any proceedings already commenced as mentioned in the said subsection (1)(b).

## **88 Prescriptive period for obligations arising by virtue of 1841 Act or 1840 Act**

In Schedule 1 to the Prescription and Limitation (Scotland) Act [1973 \(c. 52\)](#) (obligations affected by prescriptive periods of five years to which section 6 of that Act applies)—

- (a) after sub-paragraph (aa) of paragraph 1 there shall be inserted—
  - “(ab) to any obligation arising by virtue of a right—
    - (i) of reversion under the third proviso to section 2 of the [School Sites Act 1841 \(4 & 5 Vict. c.38\)](#) (or of reversion under that proviso as applied by virtue of any other enactment);
    - (ii) to petition for a declaration of forfeiture under section 7 of the [Entail Sites Act 1840 \(3 & 4 Vict. c.48\)](#);”;
- (b) in paragraph 2—
  - (i) in sub-paragraph (e), for the words “or (aa)” there shall be substituted “, (aa) or (ab)”; and
  - (ii) after that sub-paragraph there shall be inserted—

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“(ee) so as to extinguish, before the expiry of the continuous period of five years which immediately follows the coming into force of section 88 of the Title Conditions (Scotland) Act 2003 (asp 9) (prescriptive period for obligations arising by virtue of 1841 Act or 1840 Act), an obligation mentioned in sub-paragraph (ab) of paragraph 1 of this Schedule;”.

## **89 Repeal of Reversion Act 1469**

- (1) The Reversion Act 1469 (c. 3) shall cease to have effect.
- (2) Subsection (1) above shall not affect any right of reversion constituted, before the appointed day, as a real right.