



# 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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*Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, Section 86. (See end of Document for details)*

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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).

**Changes to legislation:**

There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, Section 86.