

Scottish Statutory Instrument 2004 No. 226

The Crofting Community Right to Buy (Compensation) (Scotland) Order 2004

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SCOTTISH STATUTORY INSTRUMENT

2004 No. 226

LAND REFORM

The Crofting Community Right to Buy (Compensation) (Scotland) Order 2004

Made

18th May 2004

*Laid before the Scottish
Parliament*

21st May 2004

The Scottish Ministers in exercise of the powers conferred by section 89(4) of the Land Reform (Scotland) Act 2003[1], and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1. - (1) This Order may be cited as the Crofting Community Right to Buy (Compensation) (Scotland) Order 2004 and shall come into force on 15th June 2004.

(2) In this Order-

"the Act" means the Land Reform (Scotland) Act 2003;

"the claimant" means any of the persons specified in section 89(1) of the Act.

2. A claim for compensation made under section 89(1)(a), (b) or (c) of the Act shall be submitted to the crofting community body which is liable to pay the compensation at the registered office of that body.

3. A claim for compensation made under article 2 shall be submitted within 90 days of-

(a) the final settlement date defined in section 87(2), or such later date as settlement of the purchase is made in terms of section 87(3) or (4);

(b) the date of withdrawal by the crofting community body of its confirmation of its intention to proceed with the purchase under section 85; or

(c) the date on which the crofting community body's application is treated as withdrawn under section 87(5),

whichever date is the earlier.

4. A claim for compensation made under section 89(3) of the Act shall be submitted to Ministers within 90 days from the date of notification under section 82 of the refusal by Ministers to grant the crofting community body's application.

5. A claim for compensation shall include a statement detailing whether the loss or expense falls within paragraph (a), (b) or (c) of section 89(1), and losses and expenses shall be fully vouched.

6. Where the claimant and Ministers or the crofting community body, as the case may be, have been unable to agree the amount of compensation within 60 days from the date of submission of the claim, either party may apply to the Land Court to decide the amount of compensation payable in terms of section 89(5) of the Act.

ALLAN WILSON

Authorised to sign by the Scottish Ministers

St Andrew's House, Edinburgh
18th May 2004

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the procedure by and manner in which compensation for loss or expense may be claimed by any person, including an owner of land or sporting interests, under section 89 of the Land Reform (Scotland) Act ("the Act"). Such compensation is payable where loss or expense has been incurred (a) in complying with the requirements of the Act following the making of an application to purchase by the community body; (b) as a result of the withdrawal by the crofting community body of its confirmation of intention to proceed with the purchase, or its failure otherwise to complete the purchase after confirming its intention to do so; or (c) as a result of the failure of the crofting community body which made the application to complete the purchase. In these cases the compensation is payable by the crofting community body (article 2).

Where loss or expense has been incurred as a result of an application under section 73 of the Act being refused compensation for such loss or expense is payable by the Scottish Ministers (article 4).

Articles 3 and 4 provide for the time limits within which a claim for compensation must be made, and article 5 requires a statement detailing the head of claim in section 89(1) under which the loss or expense falls, and that losses and expenses are fully vouched. Article 6 provides that if compensation is not agreed within 60 days from the date of submission of the claim either party may refer the claim to the Land Court for resolution.

Notes:

[1] 2003 asp 2. Section 98(1) of the Act contains the definition of "Ministers" relevant to the exercise of the statutory powers under which this Order is made.[back](#)

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