SCOTTISH STATUTORY INSTRUMENTS

2003 No. 452

LANDS TRIBUNAL

The Lands Tribunal for Scotland Rules 2003

Made - - - -	*22nd September 2003*
Laid before the Scottish Parliament - - - -	*24th September 2003*
Coming into force	
for the purposes of applications under section 20 and referrals under section 44 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 and referrals under section 86(5), and applications under or by virtue of sections 90(1)(b)(ii) and 107 of the Title Conditions (Scotland) Act 2003	*1st November 2003*
for all other purposes	*28th November 2004*

The Scottish Ministers, in exercise of the powers conferred by section 3 of the Lands Tribunal Act 1949(**1**) and sections 101 and 104 of the Title Conditions (Scotland) Act 2003(**2**) and of all other powers enabling them in that behalf, and after consultation with the Scottish Committee of the Council on Tribunals in accordance with section 104 of the Title Conditions (Scotland) Act 2003 and section 8(1) of the Tribunals and Inquiries Act 1992(**3**), hereby make the following Rules:

Citation and commencement

1.—(1) These Rules may be cited as the Lands Tribunal for Scotland Rules 2003.

(**1**) 1949 c. 42. Section 3 was amended by section 50(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35) and by S.I. 1972/2002. The functions of the Lord Advocate were transferred to the Secretary of State for Scotland by the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678) and to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). The requirement to obtain Treasury consent was removed by section 55 of that Act.
(**2**) 2003 asp 9.
(**3**) 1992 c. 53.

(2) These Rules shall come into force–

(a) for the purposes of applications or referrals under sections 20 and 44 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000(**4**) and under, or by virtue of, sections 86(5) and 90(1)(b)(ii) and 107 of the Title Conditions (Scotland) Act 2003, on 1st November 2003; and

(b) for all other purposes, on 28th November 2004.

Interpretation

2. In these Rules–

"the Act of 1949" means the Lands Tribunal Act 1949;

"the Act of 1963" means the Land Compensation (Scotland) Act 1963(**5**);

"the Act of 1997" means the Town and Country Planning (Scotland) Act 1997(**6**);

"the Act of 2000" means the Abolition of Feudal Tenure etc. (Scotland) Act 2000;

"the Act of 2003" means the Title Conditions (Scotland) Act 2003;

"the President" means the President of the Lands Tribunal for Scotland or the member appointed under the provisions of the Act of 1949 to act for the time being as deputy for the President;

"the Tribunal" means the Lands Tribunal for Scotland.

PART I

APPLICATIONS UNDER THE ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000 AND THE TITLE CONDITIONS (SCOTLAND) ACT 2003

General

3. Any application to the Tribunal made under, or by virtue of, any of the provisions listed in column 1 of Schedule 1 shall be made in, or as nearly as may be in, accordance with the corresponding application form listed in column 2 of that Schedule and set out in Schedule 2.

Applications under section 20 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000

4. On receiving an application under section 20 of the Act of 2000 (Reallotment of real burden by order of Lands Tribunal) the Tribunal shall give notice of that application to the person who has a right to the feu which is subject to the real burden in question, and, if the Lands Tribunal thinks fit, to any other person by sending a copy of that application to such person or, if such person cannot by reasonable inquiry be identified or found, by advertisement or such other method as the Tribunal thinks fit. Any person who is entitled to oppose or make representations in relation to the application shall send intimation thereof in writing to the Tribunal and to the applicant within 21 days of the notice of application. Such intimation shall contain a concise statement of the facts and contentions on which it is intended to rely. The Tribunal shall send copies of any such intimations to those other persons whom it considers should receive a copy.

(**4**) 2000 asp 5.
(**5**) 1963 c. 51.
(**6**) 1997 c. 8.

Applications for certificates referred to in sections 23, 37 and 73 and 107 of the Title Conditions (Scotland) Act 2003

5. When an application is made to the Tribunal for a certificate referred to in section 23 (Prerequisite certificate for registration on notice of termination), section 37 (Preservation of a community burden), section 73 (Disapplication) or section 107 (Extinction of real burdens and servitudes etc where land acquired by agreement) of the Act of 2003, there shall be sent with the application sufficient evidence to satisfy the Tribunal of the intimation of the notice of termination, or the notice of a proposal to register a deed of variation or discharge, or the notice of a proposal to register a deed of disapplication or the notice of a proposal to register a conveyance, as the case may be.

Taking effect of orders

6.—(1) Subject to the provisions of paragraphs (2) and (3), an order made by the Tribunal in respect of applications under sections 90(1) (Power of Lands Tribunal as respects title conditions) or 91(1) (Special provision as to variation or discharge of community burdens) of the Act of 2003 shall take effect on the occurrence of whichever of the following events last occurs after the Tribunal has made the order:–

(a) the expiry of a period of 21 days after the date when the order was made by the Tribunal;

(b) the disposal by the Court of Session of a case stated by the Tribunal on appeal to that court or, if there is an appeal to the House of Lords, the disposal of the case by the House of Lords;

(c) the abandonment or other termination of the proceedings on a case so stated without a decision having been given;

(d) the abandonment or other termination of an appeal against the decision of the Court of Session on a case so stated or the expiry of the time for bringing any such appeal without it having been brought; or

(e) the variation by the Tribunal of the order in compliance with any directions given by the Court of Session or the House of Lords in proceedings relating to such a case:

Provided that where the application is unopposed or all persons who have opposed or made representations in respect of the application have informed the Tribunal that they consent to the order taking effect immediately, and it is so certified in the order, such order shall take effect on the date on which it is made by the Tribunal.

(2) Where an obligation is varied or discharged subject to the payment of any compensation awarded by the Tribunal, the order of the Tribunal shall not, so far as it affects such variation or discharge, take effect until the Tribunal has endorsed the order to the effect either that the compensation has been paid or that all persons to whom any compensation has been awarded but who have not received payment of it have agreed to the order taking effect.

(3) The Tribunal may direct that the compensation shall be paid or satisfied within a specified time and that, unless it is so paid or satisfied, the order shall be void on the expiration of the time so specified.

PART II

DETERMINATION OF QUESTIONS OF DISPUTED COMPENSATION

General

7. Subject to the provisions of Part II of the Act of 1963 and of Part V of these Rules the procedure regulating the determination of questions of disputed compensation shall be as set out in this Part.

Method of making application

8.—(1) Proceedings for the determination of any question or dispute to which this Part applies may be instituted by any party who requires to have the question or dispute determined sending to the Tribunal an application in or as nearly as may be in accordance with Form 1 in Schedule 2 and the Tribunal shall send copies of such application to the other parties to the question or dispute and to any other persons whom it considers should receive a copy.

(2) There shall be sent with the application–

(a) if the compensation is payable on the compulsory acquisition of land, a copy of the notice to treat (if such notice has been served) and of any notice of claim and any amendment thereof delivered to the acquiring authority in pursuance of section 5 of the Act of 1963; or

(b) in any other case, a copy of the order, direction, notice, decision, authorisation or other document which is evidence of the proceedings giving rise to compensation.

(3) An application shall not be made before the expiry of 30 days from the date of service or constructive service of notice to treat or (where no notice to treat is served or is deemed to be served) of notice of claim.

PART III

REFERENCES UNDER SECTION 104 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Interpretation

9. In this Part–

"claimant" and "appropriate authority" have the meanings assigned to them by sections 101 and 120 respectively of the Act of 1997.

Making of references

10. Where in accordance with section 102 of the Act of 1997 the appropriate authority has served on a claimant a counter-notice objecting to a blight notice served on them by the claimant and the claimant requires that the objection be referred to the Tribunal in terms of section 104 of that Act (Reference of objection to Lands Tribunal) then the claimant shall, at any time before the end of the period of two months beginning with the date of service of the counter-notice, send or deliver to the Tribunal a notice of reference in, or as nearly as may be in, accordance with Form 2 in Schedule 2 and shall enclose with the notice of reference a copy of the blight notice and of the counter-notice and the Tribunal shall forthwith send a copy of the notice of reference to the appropriate authority.

PART IV

REFERENCES UNDER SECTION 1(3A) OF THE LANDS TRIBUNAL ACT 1949

Making of references

11. An appeal or complaint may be referred to the Tribunal under section 1(3A) of the Act of 1949 by a valuation appeal committee sending to the Tribunal a notice of reference in or as nearly as may be in accordance with Form 3 in Schedule 2 together with a copy of the appeal lodged in accordance with regulation 3 of the Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) Regulations 1995(**7**) and copies of any application and written representations made in accordance with regulation 4 of those Regulations.

Determination declined

12. If the Tribunal declines to proceed to determine any appeal or complaint in terms of section 1(3B) of the Act of 1949, it shall give notice of its decision with reasons to all parties having an interest in the appeal or complaint and shall retransmit the appeal or complaint to the valuation appeal committee.

PART V

GENERAL

Method of making Application

13. Except where these Rules otherwise provide, any question which is to be determined by or referred to the Tribunal shall be brought before it by way of written application and, except where otherwise provided by section 93 of the Act of 2003 (Notification of application), a copy of the application shall be sent by the Tribunal to each of the other parties to the proceedings and to such other persons whom it considers should receive a copy, setting a date by which representations to it as respects the application may be made. In a case in which the Tribunal is acting as arbiter under a reference by consent the notice of reference shall be in or as nearly as may be in accordance with Form 1.

Procedure

14. Subject to the provisions of these Rules and to any direction given by the President the Tribunal may regulate its procedure as it thinks fit.

Sittings of Tribunal

15.—(1) Sittings of the Tribunal shall be on such dates and at such times and places as the President may from time to time determine and, not less than 21 days or such shorter period as the parties agree to before the date of a hearing, the Tribunal shall–

(a) give notice in writing to the parties to the proceedings; and

(b) give notice by such method as it may determine (whether by way of advertisement or otherwise) to any other persons whom it considers have an interest in the proceedings,

of the date, time and place of the hearing.

(**7**) S.I. 1995/572