



Crofting Reform etc. Act 2007

2007 asp 7

PART 5

SCHEMES FOR DEVELOPMENT

30 Schemes for development

(1) After section 19 of the 1993 Act, there is inserted—

“19A Schemes for development

(1) The landlord (or owner), or any person acting with the consent of the landlord (or owner)—

(a) may by application to the Land Court seek its consent to—

(i) croft land or common grazing; or

(ii) land near to croft land or common grazing if rights and liabilities in relation to the croft land or common grazing would be affected,

being developed in accordance with a scheme appended to the application; or

(b) may intimate to that Court that every person who has rights in or over croft land or a common grazing consents to its being developed in accordance with a scheme appended to the intimation,

and the applicant shall send a copy of the application or as the case may be of the intimation (and, in either case, of the appended scheme) to the Commission.

(2) Consent under paragraph (a) of subsection (1) above is not to be given unless the Court is satisfied—

(a) that the development is for a reasonable purpose;

(b) that to carry it out would not be unfair;

(c) that the scheme provides for there to be fair recompense to each member of the crofting community in the area affected by the development for the effects of the development (including, in relation to the croft land of each such member, recompense at least equivalent

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- to the recompense which the member might be expected to have obtained had that croft land been resumed); and
- (d) that, were the development carried out—
- (i) that community would be likely to benefit financially; and
 - (ii) such benefit would be at least commensurate with any financial benefit which the members of that community might obtain on the development proceeding other than by virtue of this section.
- (3) For the purposes of subsection (2) above—
- (a) the definition of “reasonable purpose” in subsection (3) of section 20 of this Act applies as it does for the purposes of subsection (1) of that section;
 - (b) it is unfair to carry out a development only where to do so would have significant adverse consequences for one or more of the members of the crofting community in the area affected by the development and either those consequences would be disproportionately greater than the adverse consequences for the other members of that community or there would be no adverse consequences for those other members;
 - (c) whether recompense is fair is to be determined having regard both to the value of the development and to its effect on the member in question; and
 - (d) an effect for which there is to be fair recompense may be an effect of any kind whatsoever (and in particular need not be an effect on a croft qua croft).
- (4) An application under paragraph (a) of subsection (1) above or intimation under paragraph (b) of that subsection shall—
- (a) be made in such form; and
 - (b) be accompanied by such fee,
- as the Court shall specify; and the Court may make different provision for different categories of case.
- (5) Provision made under subsection (4)(a) above shall include provision as to the form and content of the appended scheme.
- (6) A person making an application under paragraph (a) of subsection (1) above or giving intimation under paragraph (b) of that subsection shall forthwith give public notification of the application or intimation.
- (7) Within 28 days after the public notification is given (including the day on which given)—
- (a) the Commission; or
 - (b) any other interested party,
- may submit to the Court written objections, on one or more of the grounds mentioned in subsection (8) below, as respects the application or intimation; and the Court shall hear the objectors (if any) before determining whether to give consent under this section or as the case may be before determining whether to proceed under subsection (10) below as respects the intimation.
- (8) The grounds are—

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- (a) that the development is not for a reasonable purpose (the definition of “reasonable purpose” in subsection (3) of section 20 of this Act applying for the purposes of this paragraph as it applies for the purposes of subsection (1) of that section);
 - (b) that to carry out the development would be unfair to the crofting community;
 - (c) in the case of a submission under paragraph (a) of subsection (7) above, that the scheme does not provide for there to be fair recompense to each member of the crofting community;
 - (d) in the case of a submission under paragraph (b) of subsection (7) above—
 - (i) that to carry out the development would be unfair to the objector;
 - (ii) that the scheme does not provide for there to be fair recompense to the objector;
 - (e) that, were the development to be carried out, the crofting community would be unlikely to benefit financially;
 - (f) that, were the development to be carried out, any financial benefit to the crofting community would not be as mentioned in subparagraph (ii) of subsection (2)(d) above.
- (9) The Court shall, whether or not there is a hearing under subsection (7) above, give reasons for any such determination.
- (10) On—
- (a) giving consent under this section; or
 - (b) determining to proceed under this subsection as respects an intimation,
- the Court shall advise the Commission that it has done so and provide them with a copy of the scheme in accordance with which the development is to take place; and the Commission shall enter that copy in the Register of Crofts.
- (11) When so entered the scheme shall, in so far as its terms so provide, be binding on—
- (a) the landlord (or owner);
 - (b) any member of the crofting community in the area affected by the development;
 - (c) any person who, though not described in paragraph (b) above, is—
 - (i) a tenant of a croft; or
 - (ii) a holder of grazing rights,in that area; and
 - (d) the successors to the persons mentioned in paragraphs (a) to (c) above.”.
- (2) In section 49 of the 1993 Act (common grazings regulations), after subsection (8) there is added—
- “(9) Nothing contained in a scheme a copy of which has been entered, under section 19A of this Act, in the Register of Crofts is, for the purposes of subsection (8) above, an agreement.”.