

CROFTING REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 2 – the Crofting Register

Registration

Section 4: First registration

10. **Section 4** outlines the circumstances under which a croft may or must be registered for the first time on the Crofting Register. Where details of a croft are not registered on the Crofting Register, subsection (1) requires that the croft must be registered in the following instances: upon the creation of a new croft under section 3A(1) or (2) of the 1993 Act; upon the transfer of ownership of an owner-occupied croft; and in the event of a regulatory trigger that is mentioned in subsection (4). Under subsection (2), an unregistered croft may be registered voluntarily. Subsection (3) defines the persons eligible to apply to register an unregistered croft on a voluntary basis.
11. Subsection (4) sets out the trigger events which will require the first registration of crofts and owner-occupied crofts. These trigger events relate to an application for a regulatory decision that would impact on the extent of a croft or the interests in a croft. In some cases, the trigger event relates to the giving of notice of a change to the extent of, or interests in, a croft to the Commission under the 1993 Act.
12. The person who has responsibility for the first registration of a croft will vary depending on the regulatory trigger. Table 1 of Schedule 2 lists those who are responsible for applying for registration in each case mentioned in subsection (4).
13. The Crofting Commission must not take forward a regulatory application they receive unless a registration form has been received for the croft that is the subject of the regulatory application within six months of the regulatory application being made.
14. Subsection (5) enables the Scottish Ministers to modify the regulatory trigger events by order. This will allow them to add to the list of events, modify the events or remove an event requiring first registration. However, it will not be possible add the transfer of ownership of any land on which a croft is situated as an event which triggers first registration of an unregistered croft. Subsection (7) provides that where the Scottish Ministers exercise the power in subsection (5) they may by order modify Table 1 in Schedule 2 which lists the people who are responsible for making registration applications under section 4(1)(c). Subsection (8) allows the Scottish Ministers to make regulations about when ownership of an owner-occupied croft is to be treated as being transferred. Subsection (9) provides that the requirement to register an owner-occupier croft on the transfer of ownership of that croft ends if a trigger step mentioned in subsection (4) is taken in relation to that croft. Subsection (11) defines what is meant by the terms “croft” and “new croft” in Part 2 of the Act.