



# Crofting Reform (Scotland) Act 2010

## 2010 asp 14

### PART 2

#### THE CROFTING REGISTER

##### *Duty to establish and maintain register*

#### **3 The Crofting Register**

- (1) The Keeper of the Registers of Scotland must establish and maintain a public register of crofts, common grazings and land held runrig.
- (2) The register established under subsection (1) is to be known as the Crofting Register.
- (3) In this Part—
  - the “Keeper” means the Keeper of the Registers of Scotland;
  - the “register” means the Crofting Register; and
  - “registered” means registered in the register; and cognate expressions are to be construed accordingly.

##### *Registration*

#### **4 First registration**

- (1) An unregistered croft must be registered—
  - (a) in the case of a new croft, subject to section 3AA of the 1993 Act, on the determination under section 3A(1) or, as the case may be, (2) of that Act to constitute the land or holding as a croft;
  - (b) in the case of an owner-occupied croft, subject to subsection (9), on the transfer (whether or not for valuable consideration) of the ownership of the croft;
  - (c) in any case other than the case of a new croft, on the taking, in relation to the croft, of any step mentioned in subsection (4) (or, in the case of a step mentioned in paragraph (p) of that subsection, in accordance with that paragraph).

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- (2) An unregistered croft may be registered on an application being made by a person mentioned in subsection (3).
- (3) The person is—
- (a) the owner of the land on which the croft is situated;
  - (b) the landlord;
  - (c) the crofter;
  - (d) where the croft is an owner-occupied croft, the owner-occupier crofter.
- (4) The steps referred to in subsection (1)(c) are—
- (a) the making of an application for a direction enlarging the croft under section 4(4) of the 1993 Act;
  - (b) the making of an application for consent to exchange the croft under section 4A of that Act;
  - (c) the making of an application for consent to assign the croft under section 8 of that Act;
  - (d) the making of an application for consent to divide the croft—
    - (i) under section 9 of that Act; or
    - (ii) under section 19D of that Act;
  - (e) in the case of a bequest of the croft such as is mentioned in subsection (1)(a) of section 10 of that Act, the giving of notice under subsection (2) of that section of the acceptance of the bequest of that croft;
  - (f) the giving of notice under section 11(1) of that Act in respect of the transfer of the tenancy of the croft in pursuance of section 16(2) of the Succession (Scotland) Act 1964 (c.41);
  - (g) the making of an application under section 20(1) of the 1993 Act to resume the croft or part of the croft;
  - (h) the making of an order for reversion of a resumption of the croft under section 21A(1) of that Act;
  - (i) the making of an application for approval to the letting of the croft or any part of the croft under section 23(3) of that Act;
  - (j) the re-letting of the croft in accordance with proposals submitted under section 23(5) of that Act;
  - (k) the letting of the croft pursuant to a determination under section 23(5C) of that Act;
  - (l) the making of an application for a decrofting direction—
    - (i) by giving notice under section 24(2) of that Act;
    - (ii) by application under section 24(3) of that Act; or
    - (iii) by application under section 25(4) of that Act;
  - (m) the division of the croft, or owner-occupied croft, under section 26G of that Act;
  - (n) the letting of the croft—
    - (i) in accordance with proposals submitted under section 26J(1) of that Act; or
    - (ii) pursuant to a decision under section 26J(8) of that Act;

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- (o) the making of an application for consent to the letting of the croft or any part of the croft under section 29A(1) of that Act other than such a letting under a short lease (within the meaning of section 29A(4) of that Act);
  - (p) the preparation, under section 38(8)(a) of that Act, of a reorganisation scheme which includes provision—
    - (i) forming the croft;
    - (ii) making any change to, or in relation to, the croft;and in such a case, the croft may not be registered until the condition mentioned in paragraph (a) or (b) of section 39(1) of that Act (whichever first occurs) is satisfied in relation to the scheme;
  - (q) the making of an application by the crofter of the croft for a part of a common grazing to be apportioned under section 52(4) of that Act.
- (5) The Scottish Ministers may, by order, modify subsection (4) so as to—
- (a) add a step to;
  - (b) modify the description of a step in;
  - (c) remove a step from,
- that subsection.
- (6) But an order under subsection (5) may not add, as a step to subsection (4), the transfer (whether or not for valuable consideration) of the ownership of any land on which the croft is situated.
- (7) Where the Scottish Ministers exercise the power in subsection (5), they may by order modify Table 1 in schedule 2 so as to—
- (a) add a step to column 1 of that table;
  - (b) modify the description of any step mentioned in that column;
  - (c) remove a step from that column;
  - (d) add a person to column 2 of that table;
  - (e) modify the description of any person mentioned in that column;
  - (f) remove a person from that column.
- (8) The Scottish Ministers may, by regulations, make provision about when ownership is to be treated as transferred for the purposes of subsection (1)(b).
- (9) A person who, but for this subsection, would be required to register an owner-occupied croft by virtue of subsection (1)(b), need not register the croft if a step mentioned in subsection (4) is taken in relation to the croft.
- (10) In sections 5 to 19, “first registration” means the registration of an unregistered croft.
- (11) In this Part—
- “croft”—
- (a) in relation to an unregistered croft, means—
    - (i) a holding which is a croft within the meaning of section 3 of the 1993 Act; or
    - (ii) a new croft;
  - (b) in relation to a registered croft, means a holding which is a croft within the meaning of section 3ZA of that Act;

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“new croft” means land or a holding in relation to which the Commission have made a determination, under section 3A(1) or, as the case may be, (2) of the 1993 Act, to constitute the land or holding as a croft.

## 5 Registration of events affecting registered crofts

- (1) The following events in relation to a registered croft must be registered, that is—
- (a) in the case of an owner-occupied croft, the transfer (whether or not for valuable consideration) of ownership of the croft;
  - (b) in any case other than the case of an owner-occupied croft—
    - (i) the transfer (whether or not for valuable consideration) of the ownership of any land on which the croft is situated;
    - (ii) a change of landlord of the croft;
  - (c) in any case, the taking, in relation to the croft, of any step mentioned in subsection (3).
- (2) But subsection (1) does not apply to a croft—
- (a) which was registered as a result of the taking of a step mentioned in subsection (4) of section 4 (other than a step mentioned in paragraph (e), (f), (h), (j), (k), (m), (n) or (p) of that subsection); and
  - (b) in respect of which a step mentioned in subsection (3) constitutes a change affecting the croft which requires to be notified to the Keeper under section 10.
- (3) The steps referred to in subsection (1)(c) are—
- (a) the enlargement of the croft under section 4 of the 1993 Act;
  - (b) the exchange of the croft under section 4A of that Act;
  - (c) the assignation of the croft under section 8 of that Act;
  - (d) the division of the croft—
    - (i) under section 9 of that Act; or
    - (ii) under section 19D of that Act;
  - (e) in the case of a bequest of the croft such as is mentioned in subsection (1)(a) of section 10 of that Act, the giving of notice under subsection (2) of that section of the acceptance of the bequest of that croft;
  - (f) the transfer of the crofter’s interest in a lease of the croft under section 16(2) of the Succession (Scotland) Act 1964 (c.41);
  - (g) the giving of authorisation to resume the croft or part of the croft under section 20(1) of the 1993 Act;
  - (h) the granting under section 20(1C) of that Act of an extension of the period for which resumption of the croft is authorised;
  - (i) the making of a determination under section 20(1F) of that Act converting a temporary resumption of the croft into an ordinary resumption;
  - (j) the making of an order under section 21A of that Act that land resumed under section 20 is to revert to being a croft;
  - (k) the letting (or, as the case may be, re-letting) of the croft—
    - (i) (or part of the croft) under section 23(3) of that Act;
    - (ii) in accordance with proposals submitted under section 23(5) of that Act;

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- (iii) pursuant to a determination under section 23(5C) of that Act;
    - (iv) (or part of the croft) under section 29A(1) of that Act other than such a letting under a short lease (within the meaning of section 29A(4) of that Act);
  - (l) the making of a decrofting direction under section 24(2) or, as the case may be, (3) of that Act;
  - (m) the division of the croft, or owner-occupied croft, under section 26G of that Act;
  - (n) the letting of the croft—
    - (i) in accordance with proposals submitted under section 26J(1) of that Act;
    - (ii) pursuant to a decision under section 26J(8) of that Act;
  - (o) the making of a change to, or in relation to, the croft by virtue of a provision of a reorganisation scheme prepared under section 38(8)(a) of that Act;
  - (p) the apportionment of a part of a common grazing to the crofter of the croft under section 52(4) of that Act;
  - (q) the bringing to an end, under subsection (12) of section 52 of that Act, of an apportionment of a part of a common grazing to the crofter of the croft under subsection (4) of that section.
- (4) The Scottish Ministers may, by order, modify subsection (3) so as to—
  - (a) add a step to;
  - (b) modify the description of a step in;
  - (c) remove a step from,that subsection.
- (5) Where the Scottish Ministers exercise the power in subsection (4), they may by order modify Table 2 in schedule 2 so as to—
  - (a) add a step to column 1 of that table;
  - (b) modify the description of any step mentioned in that column;
  - (c) remove a step from that column;
  - (d) add a person to column 2 of that table;
  - (e) modify the description of any person mentioned in that column;
  - (f) remove a person from that column.
- (6) The Scottish Ministers may, by regulations, make provision about when ownership is to be treated as transferred for the purposes of subsection (1)(a) and (b)(i).

## **6 Persons responsible for applications for registration**

- (1) An application for first registration of a croft is to be submitted—
  - (a) in the case of a transfer of ownership of an owner-occupied croft such as is mentioned in section 4(1)(b), by the person to whom such ownership is transferred;
  - (b) in the case of a step mentioned in section 4(4), by the person mentioned in the entry in column 2 of Table 1 in schedule 2 which corresponds to the entry relating to that step in column 1 of that table.
- (2) An application for registration of an event in relation to a registered croft is to be submitted—

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- (a) in the case of a transfer of ownership of a owner-occupied croft such as is mentioned in section 5(1)(a), by the person to whom such ownership is transferred;
- (b) in the case of a transfer of ownership of land such as is mentioned in section 5(1)(b)(i), by the person to whom such ownership is transferred;
- (c) in the case of a change of landlord of the croft, by the person who is the new landlord;
- (d) in the case of a step mentioned in section 5(3), by the person mentioned in the entry in column 2 of Table 2 in schedule 2 which corresponds to the entry relating to that step in column 1 of that table.

## 7 Applications for registration

- (1) Subject to subsection (7), an application for registration, and the fee payable in respect of such registration, is to be submitted to the Commission.
- (2) An application for first registration is to be submitted, in the case of a new croft, at the same time as an application under section 3A(1) or, as the case may be, (2) of the 1993 Act.
- (3) The Commission must, as soon as reasonably practicable after receiving an application for registration—
  - (a) in the case of an application for first registration (other than of a new croft or other than as a result of the taking of the step mentioned in section 4(4)(p)), check the information contained in or accompanying the application against the information relating to the croft, if any, in the Register of Crofts; and
  - (b) subject to section 3AA of the 1993 Act and to subsections (4) and (5), forward—
    - (i) the application, together with any comments they may have on it; and
    - (ii) the fee payable in respect of it,
 to the Keeper.
- (4) The Commission may, before forwarding an application for registration to the Keeper, require the applicant to provide them with such further information relating to the application as they consider appropriate.
- (5) The Commission may refuse to forward an application for registration if—
  - (a) a requirement made under subsection (4) is not complied with;
  - (b) the application is frivolous or vexatious;
  - (c) the fee payable in respect of the registration has not been tendered;
  - (d) there is a material inaccuracy in the application; or
  - (e) they consider that the Keeper would otherwise not accept the application under section 8(2).
- (6) Where the Commission refuse to forward an application for registration, section 52A of the 1993 Act applies as if that refusal were a decision of the Commission on an application to them under that Act.
- (7) This section does not apply to an application for registration by the Commission (a “Commission application”); and the reference in section 8(1) to an application for registration forwarded under subsection (3)(b) of this section is, in relation to a

Commission application, to be construed as a reference to the Commission application submitted to the Keeper.

- (8) In subsection (5)(d), “material inaccuracy” means an inaccuracy relating to any matter mentioned in section 11(2).

## **8 Acceptance of applications for registration**

- (1) Subject to subsection (2), the Keeper must accept an application for registration forwarded under section 7(3)(b) if it is accompanied by such documents and other evidence as the Keeper may require.
- (2) An application for registration must not be accepted by the Keeper if—
- (a) it relates to a croft which is not sufficiently described to enable the Keeper to identify it by reference to the ordnance map or such other map as the Keeper may require;
  - (b) the information otherwise contained in or accompanying it would not enable the Keeper to make up or, as the case may be, amend the registration schedule of the croft;
  - (c) in a case where the application relates to a registered croft, the application does not bear a reference to the registration schedule of that croft;
  - (d) payment of the fee payable in respect of such registration has not been tendered.
- (3) But the Keeper may accept an application for registration despite the fact that the description of the croft includes land which is already entered in the registration schedule of—
- (a) another croft;
  - (b) a common grazing; or
  - (c) land held runrig,
- as part of the description of the land which comprises that other croft, that common grazing or, as the case may be, that land held runrig.
- (4) On receipt of an application for registration, the Keeper must without delay note the date of receipt.
- (5) That date is deemed for the purposes of this Part as the date of registration provided the Keeper, after examination, accepts the application and, in the case of a first registration (other than of a new croft or other than as a result of the taking of the step mentioned in section 4(4)(p))—
- (a) no application is made to the Land Court under section 14(1); or
  - (b) such an application having been made—
    - (i) the application has been abandoned; or
    - (ii) the Court makes no order or makes an order under section 14(4)(b).

## **9 Completion of registration**

- (1) The Keeper must complete registration—
- (a) in the case of a first registration, by making up a registration schedule for the croft in the register in accordance with section 11;
  - (b) in the case of a registered croft, by making such amendment as is necessary to the registration schedule of the croft;

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- (c) in either case, by making such consequential amendments in the register as are necessary.
- (2) Where the Keeper completes a first registration under subsection (1), the Keeper must issue to the applicant a certificate, authenticated as the Keeper considers appropriate—
  - (a) confirming the registration;
  - (b) (except where the first registration is of a new croft or is as a result of the taking of the step mentioned in section 4(4)(p)), noting that the registration may be challenged under section 14(1);
  - (c) containing such other information as the Keeper considers appropriate.
- (3) Where, by virtue of being the applicant, the Commission receive a certificate under subsection (2), they must send a copy of the certificate to the crofter or owner-occupier crofter of the croft to which the certificate relates.
- (4) When issuing a certificate under subsection (2) (other than one relating to the first registration of a new croft or a first registration as a result of the taking of the step mentioned in section 4(4)(m) or (p)), the Keeper must at the same time send a copy of it to the Commission.
- (5) A certificate issued under subsection (2) is to be accepted for all purposes as sufficient evidence of the registration of the croft.
- (6) In this Part, “certificate of registration” means a certificate issued under subsection (2).

## **10 Completion of registration: further provision on first registrations**

- (1) This section applies where, in relation to a first registration (other than of a new croft or other than as a result of the taking of the step mentioned in section 4(4)(p))—
  - (a) no application is made to the Land Court under section 14(1) before the expiry of the period mentioned in section 12(5); or
  - (b) such an application having been made—
    - (i) the application has been abandoned; or
    - (ii) the Court makes no order or makes an order under section 14(4)(b).
- (2) Subject to subsection (3), the Keeper must—
  - (a) make such amendment as is necessary of the registration schedule of the croft; and
  - (b) make such consequential amendments in the register as are necessary.
- (3) Where—
  - (a) the application for first registration was made as a result of the taking, in relation to a croft, of a step mentioned in subsection (4) of section 4 (other than a step mentioned in paragraph (e), (f), (h), (j), (k), (m), (n) or (p) of that subsection); and
  - (b) the Keeper is notified, in accordance with the provisions of this section, of a change affecting the croft as a result of the taking of that step,
 the Keeper must amend the registration schedule or, as the case may be, the register accordingly.
- (4) The person taking the step mentioned in paragraph (a), (b), (c), (g), (i), (o) or (q) of subsection (4) of section 4 must, within 3 months of the granting of the application



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- mentioned in the step, notify the Commission that a change such as is mentioned in subsection (3) has taken effect.
- (5) Where the Commission are not notified of a change in accordance with subsection (4), the change is (notwithstanding any provision to the contrary) deemed not to have taken effect.
- (6) As soon as reasonably practicable after being notified under subsection (4), the Commission must notify the Keeper accordingly.
- (7) Where a change such as is mentioned in subsection (3) is a result of the taking of a step mentioned in paragraph (d)(i), (d)(ii), (l)(i), (l)(ii) or (l)(iii) of subsection (4) of section 4, the Commission must notify the Keeper of that change in accordance with subsection (8).
- (8) Notification under subsection (7) must be given—
- (a) in the case of the division of a croft under section 9 or 19D of the 1993 Act, as soon as reasonably practicable after the Commission consent to the division (such division taking effect only on receipt of the notification);
  - (b) in the case of the decrofting of a croft pursuant to a direction under section 24(2) or (3) of that Act, as soon as reasonably practicable after the direction is made (the decrofting taking effect only on receipt of the notification);
  - (c) in the case of the decrofting of a croft pursuant to a direction under section 24(3) of that Act resulting from an application under section 25(4) of that Act, as soon as reasonably practicable after the Commission are notified under section 25(4ZB)(a) of that Act of an acquisition.

### *The registration schedule*

## **11 The registration schedule**

- (1) The Keeper must make up and maintain a registration schedule of every croft registered in the register.
- (2) The Keeper must enter in the registration schedule—
- (a) a description of the land which comprises the croft that must consist of or include a description of it based on the ordnance map or such other map as the Keeper considers appropriate;
  - (b) the name and designation of, as the case may be—
    - (i) any tenant of the croft;
    - (ii) any owner-occupier crofter of the croft;
    - (iii) any landlord of the croft;
    - (iv) any owner of the croft;
  - (c) such other information as the Keeper considers appropriate.
- (3) Where the description of the land which comprises a croft (a “later croft”) would include land mentioned in subsection (4) (“registered land”), the Keeper—
- (a) may not include the registered land in the description of the later croft entered in the registration schedule of that croft;
  - (b) may enter a description of the land comprising the later croft which omits the registered land.

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- (4) The land referred to in subsection (3) is land which is already entered in the registration schedule of—
- (a) another croft;
  - (b) a common grazing; or
  - (c) land held runrig,
- as part of the description of the land which comprises that other croft, that common grazing or, as the case may be, that land held runrig.
- (5) The Keeper must issue, to any person applying, a copy, authenticated as the Keeper considers appropriate, of any registration schedule or any part thereof.
- (6) A copy issued under subsection (5) is to be known as an office copy and is to be accepted for all purposes as sufficient evidence of the contents of the original registration schedule.
- (7) The Scottish Ministers may, by order, modify subsection (2) so as to add to the matters mentioned there any other matters that they consider should be included in the registration schedule of a croft.

*Notification of first registration*

**12 Notification of first registration**

- (1) Subject to subsection (2), the Commission must, on receipt of a certificate of registration under section 9(2) or, as the case may be, a copy of such a certificate under section 9(4), notify any persons mentioned in subsection (3) of the matters mentioned in subsection (4).
- (2) The Commission need not notify a person mentioned in subsection (3)—
- (a) where that person is the applicant for registration; or
  - (b) where the certificate of registration issued under section 9(2) relates to a first registration as a result of the taking of the step mentioned in section 4(4)(p).
- (3) Those persons are—
- (a) the owner of the croft;
  - (b) the landlord of the croft;
  - (c) the crofter of the croft;
  - (d) the owner-occupier crofter of the croft;
  - (e) the owner of any adjacent croft;
  - (f) the landlord of any adjacent croft;
  - (g) the crofter of any adjacent croft;
  - (h) the owner-occupier crofter of any adjacent croft;
  - (i) the owner of any adjacent land (not being land which is an adjacent croft);
  - (j) the occupier of any adjacent land (not being land which is an adjacent croft).
- (4) The matters referred to in subsection (1) are—
- (a) that the croft has been registered;
  - (b) the description of the croft as it is entered in the registration schedule;
  - (c) the names and designations of any persons entered in the registration schedule in accordance with section 11(2)(b);

- (d) the right to challenge the registration by applying to the Land Court under section 14(1);
  - (e) the period, mentioned in subsection (5), before the end of which such a challenge must be brought.
- (5) That period is the period of 9 months beginning with the date on which the Commission issue notification under subsection (1).
- (6) For the purposes of subsection (5), “the date on which the Commission issue notification under subsection (1)” means—
- (a) where notification under subsection (1) is issued on the same date to every person entitled to receive it, that date;
  - (b) where such notification is issued otherwise than is mentioned in paragraph (a), the date notification is issued to the last person entitled to receive it.
- (7) The Commission must notify the applicant of the date mentioned in subsection (5).
- (8) The applicant, on receipt of the certificate under section 9(2) relating to a first registration (other than of a new croft or other than as a result of the taking of the step mentioned in section 4(4)(p)), must give public notice of the registration of the croft by—
- (a) placing an advertisement, for two consecutive weeks, in a local newspaper circulating in the area where the croft is situated; and
  - (b) affixing a conspicuous notice in the prescribed form to a part of the croft.
- (9) The applicant must take all reasonable steps to ensure that the notice mentioned in subsection (8)(b) continues to be displayed throughout the period mentioned in subsection (5).
- (10) In subsection (8)(b), “prescribed” means prescribed by the Scottish Ministers by order.

### **13 Power of entry etc. where Commission are applicant**

- (1) This section applies where, by virtue of being the applicant for registration, the Commission are required to affix a notice in accordance with section 12(8)(b).
- (2) A person authorised by the Commission may enter the croft for the purposes of—
- (a) affixing the notice;
  - (b) complying with section 12(9); and
  - (c) removing the notice in accordance with subsection (3)(b).
- (3) The Commission must—
- (a) when affixing the notice, take all reasonable care not to damage the croft or the part of the croft to which the notice is affixed; and
  - (b) remove the notice no later than 1 week after the end of the period mentioned in section 12(5).
- (4) Subsections (2) to (4) of section 56 of the 1993 Act apply for the purposes of subsection (2) as they apply for the purposes of subsection (1) of that section.

*Challenge to first registration***14 Challenge to first registration**

- (1) Subject to subsection (3), any person to whom notice is given under section 12(1), or who otherwise is aggrieved by the registration of the croft to which the notice relates, may apply before the end of the period mentioned in section 12(5) to the Land Court for an order under subsection (4)(a) or (b).
- (2) Where an application under subsection (1) is made after the end of the period mentioned in section 12(5), the Court may, on cause shown, deal with the application as if it had been made before the end of that period.
- (3) Subsection (1) does not apply as respects the registration of a croft as a result of the taking of the step mentioned in section 4(4)(p).
- (4) On receipt of an application under subsection (1), the Court may—
  - (a) make an order that the entry in the register relating to the croft be removed;
  - (b) make an order that the entry in the register relating to the croft be modified;
  - (c) make no order.
- (5) Where subsection (6) applies, the Court must, if making an order such as is mentioned in subsection (4)(b), declare the boundary of the croft to be that which, in all the circumstances, it considers appropriate.
- (6) This subsection applies where—
  - (a) the application challenging the registration raises a question as to the boundaries of the croft; and
  - (b) the evidence available to the Court is insufficient to enable any boundary to be clearly determined.
- (7) Where the Court makes an order under subsection (4)(a) or (b), the Keeper must make such amendment to the registration schedule of the croft and to the register as is necessary.

*Removal of resumed and decrofted crofts from register***15 Resumed and decrofted crofts**

- (1) The Keeper must—
  - (a) where subsection (2) applies, remove the entry in the register relating to the resumed croft;
  - (b) where subsection (3) applies, remove the entry in the register relating to the croft in relation to which a decrofting direction has been made.
- (2) This subsection applies where—
  - (a) a registered croft has been resumed (whether before or after it was first registered) by virtue of an authorisation under section 20(1) of the 1993 Act;
  - (b) no order has been made under section 21A(1) of that Act that the land so resumed revert to being a croft; and
  - (c) the period of 20 years beginning with when the resumption was authorised has ended.

- (3) This subsection applies where—
- (a) a decrofting direction under section 24(2) or, as the case may be, (3) of the 1993 Act was made in relation to a registered croft (whether made before or after it was first registered);
  - (b) the Land Court has not revoked the direction by virtue of section 25(8B) of that Act or by virtue of any other enactment; and
  - (c) the period of 20 years beginning with the making of the direction has ended.
- (4) This section applies to a part of a croft as it applies to a whole croft with the modification that references in subsection (1) to removing entries in the register are to be read as references to modifying such entries.

### *Rectification and indemnity*

## **16 Rectification of the register**

- (1) The Keeper—
- (a) may rectify the register in accordance with subsections (2) to (4);
  - (b) must rectify the register on being ordered to do so by any court.
- (2) Where a mistake in the register arises as a consequence of a mistake in an application for registration (not being a mistake to which subsection (3) applies), the Keeper may rectify the register to correct the mistake on the application of the person who made that application (the “original applicant”).
- (3) Where a mistake in the register arises as a consequence of a mistake made by the Commission when forwarding an application for registration under section 7(3)(b) or when submitting (on their own behalf) an application for registration, the Keeper may so rectify the register on the application of—
- (a) in either case, the Commission; or
  - (b) in the case of an application so forwarded, the original applicant.
- (4) Where a mistake in the register arises as a consequence of a mistake by the Keeper when making up or amending a registration schedule or making consequential amendments to the register, the Keeper may so rectify the register whether on the application of any person to do so or not.
- (5) Without prejudice to any enactment or rule of law, the powers of the court include power to make orders for the purposes of subsection (1)(b).
- (6) Where the Keeper rectifies the register under this section, the Keeper must give written notice of the rectification to—
- (a) any person appearing to the Keeper to be affected by it;
  - (b) the Commission.
- (7) In this section—
- “court” means the Court of Session, the Land Court or the sheriff;
  - “mistake” includes something mistakenly omitted and something mistakenly included;
  - “rectify”, in relation to the register, means to correct any inaccuracy in it by entering something in, amending something in or removing something from the register; and “rectification” is to be construed accordingly.

## **17 Rectification following first registration**

- (1) This section applies where, in the case of a first registration (other than of a new croft or other than as a result of the taking of the step mentioned in section 4(4)(p))—
  - (a) the Keeper rectifies the register under section 16(1)(a) to correct a material inaccuracy; and
  - (b) the register is rectified before the end of the period mentioned in section 12(5) (no application under section 14(1) having been made).
- (2) The Keeper must issue a fresh certificate of registration and sections 9(4) to (6), 10, 12 and 14 apply to that certificate as they apply to a certificate of registration issued under section 9(2).
- (3) If the rectification of the register was to correct a mistake arising as a consequence of a mistake by the Keeper when making up or amending a registration schedule or making consequential amendments to the register, the Keeper is liable for any costs incurred by any person in connection with complying with section 12.
- (4) If the rectification of the register was to correct a mistake arising as a consequence of a mistake made by the Commission when forwarding the application for registration under section 7(3)(b) or when submitting (on their own behalf) an application for registration, the Commission are liable for any costs incurred by any person in connection with complying with section 12.
- (5) In this section—
  - “material inaccuracy” has the meaning given by section 7(8);
  - “mistake” has the meaning given by section 16(7).

## **18 Indemnity in respect of loss**

- (1) A person who suffers loss as a result of a matter mentioned in subsection (2) is to be indemnified by the Keeper in respect of that loss.
- (2) Those matters are—
  - (a) a mistake in the register made by the Keeper when making up or amending a registration schedule or making consequential amendments in the register, the correction of which would require rectification of the register;
  - (b) a rectification of the register under section 16(1) to correct such a mistake;
  - (c) the refusal of the Keeper to make such a rectification;
  - (d) the loss or destruction of any document while lodged with the Keeper;
  - (e) a mistake such as is mentioned in paragraph (a) in any certificate of registration or in any information given by the Keeper in writing or in such other manner as may be prescribed by rules made under section 19(1).
- (3) But the Keeper is not liable to indemnify a person under subsection (1) in relation to a mistake such as is mentioned in subsection (2)(a) if—
  - (a) the existence of the mistake was, or ought to have been, known to—
    - (i) the person seeking indemnity for loss; or
    - (ii) any person acting as solicitor or other legal adviser of that person, at the time of registration (construed as including completion of registration under section 9 or 10 and notification under section 21);
  - (b) the mistake relates to an inaccuracy in the delineation of any boundaries shown in a registration schedule, being an inaccuracy which could not have

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- been rectified by reference to the ordnance map or to such other map as the Keeper, for the purposes of section 11(2)(a), considers appropriate; or
- (c) the loss was caused by the fraudulent or careless act or omission of the person seeking indemnity for loss.
- (4) No indemnity is payable in relation to a mistake such as is mentioned in subsection (2) (a) until a decision has been made about whether to rectify the register for the purpose of correcting the mistake; and the loss suffered as a result of that mistake is to be determined in the light of that decision.
- (5) A person who, as a result of a mistake mentioned in subsection (6)—
- (a) takes a step mentioned in subsection (7); and
- (b) suffers a loss in so doing,
- is to be indemnified by the Commission in respect of that loss.
- (6) That mistake is a mistake in the register arising as a consequence of a mistake made by the Commission when forwarding the application for registration under section 7(3) (b) or when submitting (on their own behalf) the application for registration.
- (7) Those steps are—
- (a) the submitting of a fresh application for registration;
- (b) the making of an application for rectification of the register under section 16(3).
- (8) Subsection (5) applies whether or not the register is rectified to correct the mistake referred to in that subsection.
- (9) In this section, “mistake” has the meaning given by section 16(7).

### *Rules and fees*

## **19 Rules and fees**

- (1) The Scottish Ministers may, after consultation with the Keeper and the Commission, make rules—
- (a) regulating the making up and keeping of the register (including the form and manner in which the register is made available to the public);
- (b) prescribing the form of any search, report or other document to be issued or used in connection with this Part and regulating the issuing of any such document;
- (c) prescribing the form of application for registration;
- (d) regulating the procedure on application for any registration;
- (e) prescribing the form of deeds relating to registered crofts;
- (f) concerning such other matters as seem to Ministers to be necessary or proper in order to give full effect to the purposes of this Part.
- (2) The Scottish Ministers may, by order, prescribe the fees payable in respect of registration and in respect of provision by the Keeper of searches, reports, certificates or other documents or copies of documents or of information from the register.
- (3) An order under subsection (2) may include provision about—

- (a) the circumstances in which a person making an application for first registration is to be entitled to a reduction in the fee that would otherwise be payable in respect of such registration;
- (b) the amount of or, as the case may be, method of calculating that reduction; and
- (c) the manner in which that reduction is to be achieved (whether by way of discount, repayment or otherwise and including any effect that reduction may have on the operation of sections 7(1) and (3)(b)(ii) and 8(2)(d)).

### *Appeals*

## **20 Appeals**

- (1) A person aggrieved by any act or omission of the Keeper under this Part may appeal any issue of fact or law arising from that act or omission to the Land Court.
- (2) On an appeal under this section, the Court may order the Keeper to take such remedial action as the order may specify, including action to rectify the register.

### *Notification of change to registration schedule*

## **21 Notification of change to registration schedule**

- (1) Where the registration schedule of a croft or an owner-occupied croft is amended as a result of an event such as is mentioned in section 5(1) taking place, the Keeper must give written notification of the amendment—
  - (a) to the person who applied to register the event by virtue of that section; and
  - (b) where that person is not the Commission, to the Commission.
- (2) Where, by virtue of being the applicant, the Commission receive notification under subsection (1)(a), they must send a copy of the notification to the crofter or, as the case may be, owner-occupier crofter of the croft to which the notification relates.
- (3) Where the registration schedule of a croft, or, in relation to a croft, the register, is amended in accordance with subsection (3) of section 10, the Keeper must give written notification of the amendment—
  - (a) to—
    - (i) the person who made the application mentioned in paragraph (a) of that subsection; or
    - (ii) where that person is no longer the crofter, or the owner-occupier crofter, of the croft as a result of the granting of the application mentioned in section 4(4)(b), (c) or (o), the person who is for the time being the crofter or, as the case may be, owner-occupier crofter of the croft; and
  - (b) to the Commission.
- (4) Subsection (5) applies where, as a result of an order under section 14(4) or 20(2), or under section 26K(9), 52A(4A) or 53(3) of the 1993 Act, an amendment is made to—
  - (a) the registration schedule of a croft;
  - (b) the register.
- (5) The Keeper must give written notification to—



- (a) any person appearing to the Keeper to be affected by the amendment; and
- (b) the Commission.

*Consequential amendments of the 1993 Act*

**22 Meaning of “croft” etc.**

- (1) In section 3 of the 1993 Act (meaning of croft and crofter)—
  - (a) in subsection (1), after “subsection (2) below” insert “and to section 3ZA(2)(a)”;
  - (b) in subsection (3), at the beginning insert “Subject to section 3ZA(2)(c)”.
- (2) After section 3 insert—

**“3ZA Registered crofts**

- (1) This section applies where a holding situated—
  - (a) in the crofting counties; or
  - (b) as is mentioned in section 3A(1)(b),is registered in the Crofting Register.
- (2) For the purposes of this Act—
  - (a) the holding is, from the date of registration, a croft;
  - (b) the land which comprises the croft (including any right or land mentioned in section 3(4)) is determined by the description of that land in the registration schedule of the croft; and
  - (c) from the date of registration, any person for the time being entered in the registration schedule of the croft as the tenant of the croft is a crofter.
- (3) Section 3 (other than subsection (2)) does not apply.
- (4) Section 3(2) applies to subsection (2)(a) of this section as it applies to subsection (1) of section 3.
- (5) Nothing in this section affects whether, before the date of registration, the holding was a croft or any person was the tenant of it.”.

**23 Registration of new crofts**

- (1) Section 3A of the 1993 Act (new crofts) is amended as follows.
- (2) In subsections (1) and (2), the words from “by entering” to the end are, in both subsections, repealed.
- (3) Subsection (4) is repealed.
- (4) After section 3A insert—

**“3AA Registration of new crofts**

- (1) This section applies where the Commission make a determination to exercise their power under section 3A(1) or, as the case may be, (2), to constitute land or, as the case may be, a holding as a croft.
- (2) The application for registration of the land or holding in the Crofting Register must not be forwarded to the Keeper under section 7(3)(b) of the Crofting Reform (Scotland) Act 2010 (asp 14)
  - (a) until the period mentioned in section 52A(2)(b) has expired without any appeal to the Land Court being made; or
  - (b) where such an appeal is made, until it is abandoned or the Court confirms the Commission’s determination under section 3A(1) or, as the case may be, (2).
- (3) In the case of an application for registration of a holding in relation to which a determination under section 3A(2) is made, the Commission must not forward the application unless they are satisfied—
  - (a) that agreement has been reached between the applicant and the owner of the land as to an amount to be paid by the applicant to the owner in compensation for the holding being constituted as a croft and that the amount has been duly paid;
  - (b) that the applicant and the owner have agreed that no amount in compensation is to be so payable; or
  - (c) that any such amount found, by virtue of section 3B, to be so payable has been duly paid.”
- (5) In section 3B of the 1993 Act (compensation for constituting holding as a croft), in subsection (1), for “subsection (4)(b)(i) or (ii) of that section” substitute “section 3AA(3)(a) or (b)”.

*Registration of common grazings***24 First registration of common grazings**

- (1) An unregistered common grazing—
  - (a) must be registered, in the case of a new common grazing, subject to section 51B of the 1993 Act, on the determination under section 51A(1) of that Act to constitute the land as a common grazing;
  - (b) may be registered, in any other case, on an application being made by the Commission.
- (2) Where land is registered under subsection (1), for the purposes of this Act—
  - (a) the land is, from the date of registration, a common grazing; and
  - (b) the land which comprises the common grazing is determined by the description of that land in the registration schedule of the common grazing.
- (3) Nothing in this section affects whether, before the date of registration, the land was a common grazing.

- (4) In this Part, “new common grazing” means land in relation to which the Commission have made a determination, under section 51A(1) of the 1993 Act, to constitute the land as a common grazing.

## **25 Registration of events affecting registered common grazings**

- (1) The following events in relation to a registered common grazing must be registered, that is—
- (a) the transfer (whether or not for valuable consideration) of the ownership of any land on which the common grazing is situated;
  - (b) the taking, in relation to the common grazing, of a step mentioned in subsection (2).
- (2) The steps referred to in subsection (1)(b) are—
- (a) the giving of authorisation to resume the common grazing or part of the common grazing under section 20(1) of the 1993 Act;
  - (b) the granting under section 20(1C) of that Act of an extension of the period for which resumption of the common grazing is authorised;
  - (c) the making of a determination under section 20(1F) of that Act converting a temporary resumption of the common grazing into an ordinary resumption;
  - (d) the making of an order under section 21A of that Act that land resumed under section 20 of that Act is to revert to being a common grazing;
  - (e) the enlargement of the common grazing under section 51 of that Act;
  - (f) the termination of all or part of a person’s share in the common grazing under section 52(1E)(b)(i) of that Act;
  - (g) the apportionment—
    - (i) of a share or part of a share in the common grazing under section 52(1E)(b)(ii) of that Act;
    - (ii) of the common grazing, or part of the common grazing, under 52(3) of that Act;
    - (iii) of a part of the common grazing under section 52(4) of that Act;
  - (h) the extension, under subsection (11) of section 52 of that Act, of any period for which a part of the common grazing is apportioned under subsection (10) of that section;
  - (i) the bringing to an end, under subsection (12) of section 52 of that Act, of an apportionment of the common grazing or part of the common grazing made in pursuance of subsection (3) or (4) of that section;
  - (j) the making of a determination under section 52(14) of that Act as to shares in the common grazing;
  - (k) the transfer (whether or not for valuable consideration) by a person who holds a right in the common grazing of that right to another person.
- (3) But no application for registration of a step mentioned in paragraph (g)(iii), or paragraph (i), of subsection (2) need be submitted if an application for registration of such a step is submitted by virtue of section 5.
- (4) The Scottish Ministers may, by regulations, make provision about when ownership is to be treated as transferred for the purposes of subsection (1)(a).
- (5) The Scottish Ministers may, by order, modify subsection (2) so as to—

- (a) add a step to;
  - (b) modify the description of a step in;
  - (c) remove a step from,
- that subsection.

## **26 Applications for registration: common grazings**

- (1) An application for—
  - (a) first registration of a new common grazing; or
  - (b) registration of an event affecting a registered common grazing (other than one which falls to be submitted by the Commission),and the fee payable in respect of such registration, is to be submitted to the Commission.
- (2) An application for first registration of a new common grazing is to be submitted at the same time as an application under section 51A(1) of the 1993 Act.
- (3) An application for registration of an event affecting a registered common grazing is to be submitted—
  - (a) in the case of the transfer of the ownership of any land on which the common grazing is situated, by the person to whom such ownership is transferred;
  - (b) in the case of a step mentioned in section 25(2)—
    - (i) in accordance with the requirements of the 1993 Act; or
    - (ii) in the absence of such requirements, as soon as reasonably practicable after the step is taken.
- (4) In respect of an application submitted to the Commission under this section, the Commission must, subject to section 51B of the 1993 Act and to subsections (5) and (6), forward—
  - (a) the application, together with any comments they may have on it; and
  - (b) the fee payable in respect of it,to the Keeper as soon as reasonably practicable.
- (5) The Commission may, before forwarding an application for registration to the Keeper, require the applicant to provide them with such further information relating to the application as they consider appropriate.
- (6) The Commission may refuse to forward an application for registration if—
  - (a) a requirement under subsection (5) is not complied with;
  - (b) the application is frivolous or vexatious;
  - (c) the fee payable in respect of registration has not been tendered;
  - (d) there is a material inaccuracy in the application; or
  - (e) they consider that the Keeper would otherwise not accept the application under section 8(2).
- (7) Where the Commission refuse to forward an application for registration, section 52A of the 1993 Act applies as if that refusal were a decision of the Commission on an application to them under that Act.
- (8) An application for first registration of a common grazing by the Commission is to be submitted to the Keeper.

- (9) Before submitting such an application, the Commission must consult—
  - (a) the owner of the common grazing; and
  - (b) where there is a grazings committee or grazings constable, that committee or that constable.
- (10) Where there is no grazings committee or grazings constable, the Commission must notify, in such manner as they consider appropriate (including by means of advertisement), all persons who hold a right in the common grazing of the application.
- (11) Any person notified under subsection (10) may make representations to the Commission in respect of the proposed application.
- (12) In subsection (6)(d), “material inaccuracy” means an inaccuracy relating to any matter mentioned in section 11(2) (as that section applies, with the modifications specified in schedule 3, to common grazings).
- (13) In this section, “first registration” means the registration of an unregistered common grazing.
- (14) Section 7 does not apply to applications for registration of a common grazing.

## **27 Registration of new common grazings**

- (1) In subsection (1) of section 51A of the 1993 Act (new common grazings), the words from “by entering” to the end of the subsection are repealed.
- (2) After that section insert—

### **“51B Registration of new common grazings**

- (1) Subsection (2) applies where the Commission make a determination to exercise their power under section 51A(1) to constitute land as a common grazing.
- (2) The application for registration of the land in the Crofting Register must not be forwarded to the Keeper under section 26(4) of the 2010 Act—
  - (a) until the period mentioned in section 52A(2)(b) has expired without any appeal to the Land Court being made; or
  - (b) where such an appeal is made, until it is abandoned or the Court confirms the Commission’s determination under section 51A(1).”.

## **28 Application of Act to common grazings**

Schedule 3, which applies certain provisions of this Act relating to crofts to common grazings, has effect.

### *Offences*

## **29 Transfer of land containing crofts: offences**

- (1) A person commits an offence if, ownership of an owner-occupied croft having been transferred to the person as is mentioned in section 4(1)(b), the person fails within 1 year of the transfer to apply to register the owner-occupied croft.

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- (2) A person commits an offence in respect of each further 1 year period where the person continues to fail to apply to register the owner-occupied croft mentioned in subsection (1).
- (3) But an offence under subsection (1) or (2) cannot be committed by a person in respect of an owner-occupied croft after the person is no longer required, by virtue of section 4(9), to register the owner-occupied croft.
- (4) A person commits an offence if—
  - (a) ownership of an owner-occupied croft having been transferred to the person as is mentioned in section 5(1)(a); or
  - (b) ownership of land having been transferred to the person as is mentioned in section 5(1)(b)(i),
 the person fails within 1 year of the transfer to apply to register the transfer.
- (5) A person commits an offence in respect of each further 1 year period where the person continues to fail to apply to register the transfer mentioned in subsection (4).
- (6) A person who commits an offence under subsection (1), (2), (4) or (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **30 Change of landlord: offences**

- (1) A person commits an offence if, having become the landlord of a croft, the person fails, within 1 year of becoming such a landlord, to apply to register the change of landlord in accordance with section 5(1)(b)(ii).
- (2) A person commits an offence in respect of each further 1 year period where the person continues to fail to apply to register the change of landlord mentioned in subsection (1).
- (3) But no offence is committed under this section by a person who becomes the landlord of a croft by virtue of the transfer of ownership of land on which the croft is situated.
- (4) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **31 Transfer of land on which common grazing is situated: offences**

- (1) A person commits an offence if, ownership of land such as is mentioned in section 25(1)(a) having been transferred to the person, the person fails within 1 year of the transfer to apply to register the transfer.
- (2) A person commits an offence in respect of each further 1 year period where the person continues to fail to apply to register the transfer mentioned in subsection (1).
- (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### *Lands held runrig*

### **32 Lands held runrig**

- (1) Unregistered land held runrig may be registered on an application being made by the Commission.

- (2) An application for first registration of land held runrig is to be submitted to the Keeper.
- (3) Before submitting such an application the Commission must—
  - (a) consult the owner of the land; and
  - (b) notify, in such manner as they consider appropriate (including by means of advertisement), all persons who are holders of the land held runrig.
- (4) Any person notified under subsection (3) may make representations to the Commission in respect of the application.
- (5) The following events in relation to registered land held runrig must be registered, that is—
  - (a) the apportionment of the land under section 52(8) of the 1993 Act;
  - (b) the extension, under subsection (11) of section 52 of that Act, of any period for which a part of the land is apportioned under subsection (10) of that section.
- (6) An application for registration of an event mentioned in subsection (5), and the fee payable in respect of such registration, is to be submitted to the Commission.
- (7) In respect of such an application, the Commission must, subject to subsections (8) and (9), forward—
  - (a) the application, together with any comments they may have on it; and
  - (b) the fee payable in respect of it,to the Keeper as soon as reasonably practicable.
- (8) The Commission may, before forwarding an application for registration to the Keeper, require the applicant to provide them with such further information relating to the application as they consider appropriate.
- (9) The Commission may refuse to forward an application for registration if—
  - (a) a requirement under subsection (8) is not complied with;
  - (b) the application is frivolous or vexatious;
  - (c) the fee payable in respect of registration has not been tendered;
  - (d) there is a material inaccuracy in the application; or
  - (e) they consider that the Keeper would otherwise not accept the application under section 8(2).
- (10) Where the Commission refuse to forward an application for registration, section 52A of the 1993 Act applies as if that refusal were a decision of the Commission on an application to them under that Act.
- (11) Section 7 does not apply to applications for registration of land held runrig.
- (12) Sections 8 to 21 apply, with such modifications as may be necessary, in relation to land held runrig as they apply in relation to common grazings.
- (13) The reference to sections in subsection (12) is, where those sections are modified for the purposes of their application in relation to common grazings, to those sections as so modified.
- (14) In subsection (9)(d), “material inaccuracy” means an inaccuracy relating to any matter mentioned in section 11(2) (as that section applies, by virtue of subsection (12), to lands held runrig).

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- (15) The Scottish Ministers may, by order, modify subsection (5) so as to—
- (a) add an event to;
  - (b) modify the description of an event in;
  - (c) remove an event from,
- that subsection.
- (16) In subsection (2), “first registration” means the registration of unregistered land held runrig.