
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No. (C.)

CROFTERS, COTTARS AND SMALL LANDHOLDERS

**The Crofting Reform (Scotland) Act 2010 (Commencement
No. 3, Transitory, Transitional and Savings Provisions)
Order 2012**

Made - - - - 2012

Coming into force - - 30th October 2012

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 53(2) and 57(2) and (3) of the Crofting Reform (Scotland) Act 2010(a).

In accordance with section 53(4) of that Act, a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1. This Order may be cited as the Crofting Reform (Scotland) Act 2010 (Commencement No. 3, Transitory, Transitional and Savings Provisions) Order 2012 and comes into force on 30th October 2012.

2. In this Order—

“the 2010 Act” means the Crofting Reform (Scotland) Act 2010; and

“the 1993 Act” means the Crofters (Scotland) Act 1993(b).

Commencement – days appointed

3.—(1) Subject to paragraph (2)—

(a) the day appointed for the coming into force of the provisions of the 2010 Act specified in column 1 of Part 1 of Schedule 1 (the subject matter of which is specified in column 2 of that Part) is 30th October 2012;

(b) the day appointed for the coming into force of the provisions of the 2010 Act specified in column 1 of Part 2 of Schedule 1 (the subject matter of which is specified in column 2 of that Part) is 30th November 2012; and

(a) 2010 asp 14. The powers to make this Order are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Order is subject to the affirmative procedure by virtue of section 33(3) of that Act.

(b) 1993 c.44, amended by the Crofting Reform etc. Act 2007 (asp 7) and the Crofting Reform (Scotland) Act 2010 (asp 14).

(c) the day appointed for the coming into force of the provisions of the 2010 Act, so far as not already in force, is 30th November 2013.

(2) Where a purpose is specified in column 3 of Schedule 1 in relation to any provision, that provision comes into force in accordance with paragraph (1)(a) or (b) for that purpose only.

Transitory, transitional and savings provisions

4. Schedule 2 makes transitory, transitional and savings provisions in connection with the provisions of the 2010 Act commenced by this Order.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Article 3

Commencement

PART 1

Provisions of the 2010 Act for which the day appointed for the coming into force is
30th October 2012

<i>Column 1 (Provision of the 2010 Act)</i>	<i>Column 2 (Subject matter)</i>	<i>Column 3 (Purpose)</i>
Section 3	The Crofting Register	
Section 4	First registration	For the purpose of enabling the Scottish Ministers to exercise powers conferred by the section to make orders or regulations
Section 5	Registration of events affecting registered crofts	For the purpose of enabling the Scottish Ministers to exercise powers conferred by the section to make orders or regulations
Section 11	The registration schedule	For the purpose of enabling the Scottish Ministers to exercise powers conferred by the section to make orders
Section 12	Notification of first registration	For the purpose of enabling the Scottish Ministers to exercise powers conferred by the section to make orders
Section 19	Rules and fees	
Section 25	Registration of events affecting registered common grazings	For the purpose of enabling the Scottish Ministers to exercise powers conferred by the section to make regulations or orders
Section 28	Application of Act to common grazings	For the purpose of the provisions of schedule 3 specified in column 1 of this Part of the Schedule below
Section 32	Lands held runrig	For the purpose of enabling the Scottish Ministers to exercise powers conferred by the section to make orders Subsection (12) is also commenced for the purpose of the application of sections 11, 12 and 19 of the 2010 Act to land held runrig, but in the case of sections 11 and 12 only for the purpose of enabling the

		Scottish Ministers to exercise powers conferred by those sections to make orders
Section 52	Pre-consolidation modifications of enactments relating to crofting	
Schedule 3, paragraph 4	Application of section 11 of the 2010 Act to common grazings	For the purpose of enabling the Scottish Ministers to exercise powers conferred by the paragraph to make orders
Schedule 3, paragraph 5	Application of section 12 of the 2010 Act to common grazings	For the purpose of enabling the Scottish Ministers to exercise powers conferred by the paragraph to make orders
Schedule 3, paragraph 12	Application of section 19 of the 2010 Act to common grazings	

PART 2

Provisions of the 2010 Act for which the day appointed for the coming into force is
30th November 2012

<i>Column 1 (Provisions of the 2010 Act)</i>	<i>Column 2 (Subject matter)</i>	<i>Column 3 (Purpose)</i>
Section 4(2) and (3)	First registration: voluntary	For all remaining purposes
Section 4(10) and (11)	Definition of “first registration”, “croft” and “new croft”	
Section 5	Registration of events affecting registered crofts	For all remaining purposes
Section 6(2)	Registration of events affecting registered crofts	
Section 7(1) and (3) to (8)	Applications for registration	
Section 8	Acceptance of applications for registration	
Section 9	Completion of registration	
Section 10(1) and (2)	Completion of registration: further provision on first registrations	
Section 11	The registration schedule	For all remaining purposes
Section 12(1), (2)(a) and (3) to (10)	Notification of first registration	For all remaining purposes
Section 13	Power of entry etc. where Commission are applicant	
Section 14(1), (2) and (4) to (7)	Challenge to first registration	
Section 15	Resumed and decrofted crofts	
Section 16	Rectification of the register	
Section 17	Rectification following first registration	
Section 18	Indemnity in respect of loss	

<i>Column 1 (Provisions of the 2010 Act)</i>	<i>Column 2 (Subject matter)</i>	<i>Column 3 (Purpose)</i>
Section 20	Appeals	
Section 21(1), (2), (4) and (5)	Notification of change to registration schedule	
Section 22	Meaning of “croft” etc.	
Section 24(1)(b), (2) and (3)	First registration of common grazings	
Section 25	Registration of events affecting registered common grazings	For all remaining purposes
Section 26(1)(b), (3) to (14)	Applications for registration: common grazings	
Section 28	Application of Act to common grazings	For all remaining purposes
Section 29(4), (5) and (6)	Transfer of land containing crofts: offences	
Section 30	Change of landlord: offences	
Section 31	Transfer of land on which common grazing is situated: offences	
Section 32	Lands held runrig	For all remaining purposes
Section 34	Duties of certain owner-occupiers of crofts	For the purpose of inserting section 19D(4) and (5) into the 1993 Act
Section 37	Enforcement of duties of crofters and certain owner-occupiers	For the purpose of inserting sections 26G(3) and (4), 26J(6) and (10) and 26K(9) into the 1993 Act
Section 39	Letting of owner-occupied crofts	For the purpose of inserting section 29A(3) and (8) into the 1993 Act
Section 46	Enlargement of crofts	For the purpose of inserting section 4(5) and (6) into the 1993 Act
Section 47	Enlargement of common grazings	For all remaining purposes
Section 49	Bequest of crofts	For all remaining purposes
Section 55	Minor and consequential amendments and repeals	For the purpose of the provisions of schedule 4 (minor and consequential amendments and repeals) specified in column 1 of this Part of the Schedule below
Schedule 2, Table 2	Persons responsible for applications for registration of registered crofts	
Schedule 3	Application of sections 8 to 21 of the 2010 Act to common grazings	For all remaining purposes
Schedule 4, paragraph 3(5)(a)	Amendment of section 4A of the 1993 Act	For the purpose of inserting section 4A(2B) into the 1993 Act
Schedule 4, paragraphs 3(8)(c) and (d)	Amendment of section 8 of the 1993 Act	

<i>Column 1 (Provisions of the 2010 Act)</i>	<i>Column 2 (Subject matter)</i>	<i>Column 3 (Purpose)</i>
Schedule 4, paragraph 3(9)(c)	Amendment of section 9 of the 1993 Act	
Schedule 4, paragraph 3(10)(b)	Amendment of section 11 of the 1993 Act	
Schedule 4, paragraph 3(11)(a)	Amendment of section 20 of the 1993 Act	For the purpose of inserting section 20(1ZB) and (1ZC) into the 1993 Act
Schedule 4, paragraphs 3(11)(b) to (d)	Amendment of section 20 of the 1993 Act	
Schedule 4, paragraph 3(12)(a)	Amendment of section 21A of the 1993 Act	For the purpose of inserting section 21A(1B) and (1C) into the 1993 Act
Schedule 4, paragraph 3(12)(b)	Amendment of section 21A of the 1993 Act	
Schedule 4, paragraph 3(14)(a)	Amendment of section 23 of the 1993 Act	For the purpose of inserting section 23(3ZB) into the 1993 Act
Schedule 4, paragraph 3(14)(d)	Amendment of section 23 of the 1993 Act	For the purpose of inserting section 23(5ZE) into the 1993 Act
Schedule 4, paragraph 3(14)(e)	Amendment of section 23 of the 1993 Act	For the purpose of inserting section 23(5E) into the 1993 Act
Schedule 4, paragraph 3(15)(c)	Amendment of section 24 of the 1993 Act	For the purpose of inserting section 24(3C) into the 1993 Act
Schedule 4, paragraph 3(16)(a)	Amendment of section 25 of the 1993 Act	
Schedule 4, paragraph 3(16)(b)	Amendment of section 25 of the 1993 Act	For the purpose of inserting section 25(4ZC) and (4ZD) into the 1993 Act
Schedule 4, paragraph 3(31)(a) and (b)	Amendment of section 52 of the 1993 Act	
Schedule 4, paragraph 3(31)(c)	Amendment of section 52 of the 1993 Act	For the purpose of inserting section 52(5B) to (5D) into the 1993 Act
Schedule 4, paragraph 3(31)(d) to (h)	Amendment of section 52 of the 1993 Act	
Schedule 4, paragraph 3(32)(a)	Amendment of section 52A of the 1993 Act	
Schedule 4, paragraph 3(33)	Amendment of section 53 of the 1993 Act	
Schedule 4, paragraph 3(36)(c)	Amendment of section 61 of the 1993 Act	
Schedule 4, paragraph 3(36)(d)	Amendment of section 61 of the 1993 Act	For all remaining purposes
Schedule 4, paragraph 3(36)(e)	Amendment of section 61 of the 1993 Act	For the purpose of inserting the definition of “first registration” into section 61(1) of the 1993 Act
Schedule 4, paragraph 3(36)(f) and (g)	Amendment of section 61 of the 1993 Act	
Schedule 4, paragraph 3(36)(j)	Amendment of section 61 of the 1993 Act	For all remaining purposes

SCHEDULE 2

Article 4

Transitory, transitional and savings provisions

Period of voluntary registration

1. From 30th November 2012 until 30th November 2013—

- (a) section 4(11) of the 2010 Act is to be read as if—
 - (i) paragraph (a)(ii) of the definition of “croft” was omitted; and
 - (ii) the definition of “new croft” was omitted;
- (b) section 7(3) of the 2010 Act is to be read as if—
 - (i) the words in parenthesis in paragraph (a) were omitted; and
 - (ii) the words “to section 3AA of the 1993 Act and” were omitted;
- (c) section 8(5) of the 2010 Act is to be read as if the words in parenthesis were omitted;
- (d) section 9(2)(b) of the 2010 Act is to be read as if the words in parenthesis were omitted;
- (e) section 9(4) of the 2010 Act is to be read as if the words in parenthesis were omitted;
- (f) section 10(1) of the 2010 Act is to be read as if the words in parenthesis were omitted;
- (g) section 12(8) of the 2010 Act is to be read as if the words in parenthesis were omitted;
- (h) section 17(1) of the 2010 Act is to be read as if the words in the first parenthesis were omitted;
- (i) section 24(1)(b) of the 2010 Act is to be read as if the words “, in any other case,” were omitted;
- (j) section 26(4) of the 2010 Act is to be read as if the words “to section 51B of the 1993 Act and” were omitted;
- (k) section 4(5) of the 1993 Act is to be read as if the words “or a first registered croft” were omitted;
- (l) section 4(6) of the 1993 Act is to be read as if the words in parenthesis were omitted;
- (m) section 4A(2B) of the 1993 Act is to be read as if the words in parenthesis were omitted;
- (n) section 8(6) of the 1993 Act is to be read as if the words “or a first registered croft” were omitted;
- (o) section 8(6A) of the 1993 Act is to be read as if the words in parenthesis were omitted;
- (p) section 9(3) of the 1993 Act is to be read as if the words in parenthesis were omitted;
- (q) section 19D(4) of the 1993 Act is to be read as if the words in parenthesis were omitted;
- (r) section 20(1ZB) of the 1993 Act is to be read as if the words in parenthesis were omitted;
- (s) section 23(3ZB) of the 1993 Act is to be read as if the words in the first parenthesis were omitted;
- (t) section 24(3C) of the 1993 Act is to be read as if the words in the first parenthesis were omitted;
- (u) section 25(4) of the 1993 Act is to be read as if the words “subsections (4ZB) and (4ZD)” were “subsection (4ZD)”;
- (v) section 29A(3) of the 1993 Act is to be read as if the words in the first parenthesis were omitted;
- (w) section 52(5B) of the 1993 Act is to be read as if the words in parenthesis were omitted; and
- (x) section 52(12A) of the 1993 Act is to be read as if the words in parenthesis were omitted.

New crofts

2. The coming into force of sections 4(1) (for all remaining purposes) and 23 of the 2010 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to a new croft where the application to the Commission to exercise their power under section 3A(1) or, as the case may be, (2), of the 1993 Act to constitute land, or as the case may be, a holding, as a croft, was made before that date.

New common grazings

3. The coming into force of sections 24(1)(a) and 27 of the 2010 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to a new common grazing where the application to the Commission to exercise their power under section 51A(1) of the 1993 Act to constitute the land as a common grazing was made before that date.

Duties of certain owner-occupiers of crofts

4.—(1) The coming into force of section 34 of the 2010 Act for the purpose of inserting section 19D(3) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered owner-occupied croft where the application under section 19D(2) of the 1993 Act for consent to divide the croft was made before that date.

(2) The coming into force of section 34 of the 2010 Act for the purpose of inserting section 19D(5) into the 1993 Act on 30th November 2012 by virtue of article 3(1)(b) has no effect in relation to a new croft created by the division of an unregistered owner-occupier croft where the application under section 19D(2) of the 1993 Act for consent to divide the croft is made before 30th November 2013.

Enforcement of duties of crofters and certain owner-occupiers

5.—(1) Where an unregistered croft or owner-occupied croft is divided by the Commission before 30th November 2013, section 26G(3)(a) of the 1993 Act is to be read as if the reference to the date of registration in consequence of an application under section 4 of the 2010 Act were a reference to the date on which the Commission enters in the Register of Crofts in accordance with section 41 of the 1993 Act any information to be entered in that register as regards the division.

(2) The coming into force of section 37 of the 2010 Act for the purpose of inserting section 26G(4) into the 1993 Act on 30th November 2012 by virtue of article 3(1)(b) has no effect in relation to a new croft created by the division of an unregistered croft or owner-occupied croft by the Commission before 30th November 2013.

(3) The coming into force of section 37 of the 2010 Act for the purpose of inserting section 26J(5) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to the letting of an unregistered owner-occupier croft in accordance with proposals submitted under section 26J(1) of the 1993 Act where the letting occurred before that date.

(4) The coming into force of section 37 of the 2010 Act for the purpose of inserting section 26J(9) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to the letting of an unregistered owner-occupier croft pursuant to a decision under section 26J(8) of the 1993 Act where the letting occurred before that date.

Letting of owner-occupied crofts

6. The coming into force of section 39 of the 2010 Act for the purpose of inserting section 29A(2) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered owner-occupier croft (or any part of it) where the application under section 29A(1) of the 1993 Act for the consent of the Commission was made before that date.

