



Crofters (Scotland) Act 1993

1993 CHAPTER 44

f¹ Consent for absence from croft

Textual Amendments

- F1** Ss. 21B-21D and cross-heading inserted (1.10.2011) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), ss. 35, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

21B Commission consent for absence from croft

- (1) A crofter or an owner-occupier crofter may apply to the Commission for consent to be ordinarily resident other than on, or within 32 kilometres of, the croft or, as the case may be, the owner-occupied croft.
- (2) Where an application under subsection (1) is made by a crofter, the crofter must send a copy of the application to the landlord of the croft.
- (3) The Commission may grant consent only if they consider that there is a good reason for the person not to be ordinarily resident on, or within 32 kilometres of, the croft or, as the case may be, the owner-occupied croft.
- (4) The Commission may grant consent subject to such conditions as they consider it appropriate to impose which may, in particular, relate to the duration of absence.
- (5) The Commission must make their decision on an application under subsection (1) before the expiry of the period of 28 days beginning with the date on which the application is made.
- (6) The Commission must notify—
 - (a) the applicant; and
 - (b) if the applicant is a crofter, the landlord of the croft, of their decision and the reasons for making it.

Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Consent for absence from croft. (See end of Document for details)

21C Extension of consent for absence

- (1) Where the Commission have granted consent under section 21B subject to a condition as to the duration of absence, the applicant may, before the expiry of the period for which consent has been granted, apply to the Commission to extend the duration of the consent.
- (2) Subsections (2) to (6) of section 21B apply to an application under subsection (1) of this section as they apply to an application under section 21B(1).

21D Variation of condition in consent for absence

- (1) Where the Commission have granted consent under section 21B subject to a condition (other than a condition as to the duration of absence), the applicant may, before the expiry of the period for which consent has been granted, apply to the Commission to vary the condition.
- (2) Subsections (2) to (6) of section 21B apply to an application under subsection (1) of this section as they apply to an application under section 21B(1).]

F²22 Absentee crofters.

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Textual Amendments

F2 S. 22 repealed (1.10.2011) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), [s. 57\(2\), Sch. 4 para. 3\(13\)](#), (with [s. 57\(4\)](#)); [S.S.I. 2011/334](#), art. 3, sch. Pt. 1 (with arts. 4, 6)

23 Vacant crofts.

- (1) Where—
 - (a) the landlord of a croft receives from the crofter a notice of renunciation of his tenancy or obtains from the Land Court an order for the removal of the crofter; or
 - (b) the landlord of the croft either gives to the executor of a deceased crofter, or receives from such an executor, notice terminating the tenancy of the croft in pursuance of section 16(3) of the 1964 Act; or
 - (c) for any other reason the croft has become vacant otherwise than by virtue of a declaration by the Commission in the exercise of any power conferred on them by this Act;

the landlord shall within one month from—

- (i) the receipt of the notice of renunciation of the tenancy, or
 - (ii) the date on which the Land Court made the order, or
 - (iii) the date on which the landlord gave or received notice terminating the tenancy, or
 - (iv) the date on which the vacancy came to the landlord's knowledge,
 as the case may be, give notice thereof to the Commission.

Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Consent for absence from croft. (See end of Document for details)

- (2) Any person who, being the landlord of a croft, fails to comply with the requirements of subsection (1) above shall be guilty of an offence and shall be liable on summary conviction to a fine of an amount not exceeding level 1 on the standard scale.
- [^{F3}(3) The landlord of a croft shall not, without the approval of the Commission, let the croft or any part of it to any person; and any letting of the croft otherwise than with such approval shall be null and void.
- [^{F4}(3ZA) Where approval is applied for under subsection (3) in relation to an unregistered croft (or any part of such a croft), the Commission—
- (a) may not grant that approval unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for approval was made;
 - (b) need not, during that 6 month period, consider the application for approval until an application for first registration of the croft is submitted.
- (3ZB) In relation to a registered croft, or any part of such a croft, (other than a first registered croft)—
- (a) any approval under subsection (3) expires at the end of the period of 3 months beginning with the date on which such approval was granted unless an application for registration of the letting of the croft (or part of the croft) is made by virtue of section 5 of the 2010 Act before the expiry of that period;
 - (b) the letting of the croft (or part of the croft) takes effect on the date of registration.]

[^{F5}(3A)]

(4) Where any person is in occupation of a croft under a letting which is null and void by virtue of subsection (3) above [^{F6}, subsection (5ZD) or subsection (5D),] the Commission may serve on him a notice in writing requiring him to give up his occupation of such croft on or before such day as may be specified in the notice, being a day not less than one month from the date of the service of the notice; and if he fails to give up his occupation of the croft on or before that day, [^{F7}subsections (5) and (6) of section 26H] of this Act shall, subject to any necessary modifications, apply as [^{F8}they apply] where a crofter fails to give up the occupation of a croft as mentioned in [^{F9}subsection (5) of that section] .

(5) [^{F10}Subject to subsection (5A) below,] where a croft is vacant the Commission may, at any time after the expiry of one month from the occurrence of the vacancy, give notice to the landlord requiring him to submit to them [^{F11}, before the expiry of the period of 2 months beginning with the day on which the notice is given,] his proposals for re-letting the croft, whether as a separate croft or as an enlargement of another croft^{F12} ... [^{F13} .

[^{F14}(5ZA) No more than three proposals may be submitted to the Commission in response to a notice given under subsection (5).

(5ZB) Where a proposal for letting the croft is submitted to the Commission in response to a notice given under subsection (5), they must approve or reject the proposal—

 - (a) in a case where the croft is declared vacant under section 11(8), within the period of 5 months beginning with the day on which the notice under section 11(8)(a) is given; or
 - (b) in any other case, within the period of 3 months beginning with the day on which the notice under subsection (5) was given.

Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Consent for absence from croft. (See end of Document for details)

(5ZC) The Commission must (as soon as is reasonably practicable) proceed in accordance with subsections (5B) and (5C) if—

- (a) no proposals for letting the croft are submitted by the landlord before the expiry of the period of 2 months mentioned in subsection (5);
- (b) the landlord has submitted one or two proposals for letting the croft within the period of 2 months mentioned in subsection (5) and—
 - (i) all such proposals are rejected by the Commission; and
 - (ii) the period of 2 months mentioned in subsection (5) has expired; or
- (c) the landlord has submitted three proposals for letting the croft (within the period of 2 months mentioned in subsection (5)) and the Commission have rejected all three.]

[^{F15}(5ZD) Any re-letting of an unregistered croft in accordance with proposals submitted under subsection (5) is null and void unless an application for first registration of the croft is submitted before the expiry of the period of 3 months beginning with the date of the re-letting.

(5ZE) In relation to a registered croft—

- (a) any approval under subsection (5ZB) of proposals to re-let the croft under subsection (5) expires at the end of the period of 3 months beginning with the date on which such approval was given unless an application for registration of the re-letting of the croft is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
- (b) the re-letting of the croft takes effect on the date of registration.]

(5A) [^{F16}Where a croft is declared vacant under section 11(8), the Commission must (as soon as is reasonably practicable) proceed in accordance with subsections (5B) and (5C) if—

- (a) no proposals for letting the croft are submitted by the landlord before the expiry of the period of 4 months mentioned in section 11(8)(a);
- (b) the landlord has submitted one or two proposals for letting the croft within the period of 4 months mentioned in section 11(8)(a) and—
 - (i) all such proposals are rejected by the Commission; and
 - (ii) the period of 4 months mentioned in section 11(8)(a) has expired; or
- (c) the landlord has submitted three proposals for letting the croft (within the period of 4 months mentioned in section 11(8)(a)) and the Commission have rejected all three.]

(5B) The Commission shall, by public notification, invite applications for tenancy of the croft within such period as shall be specified in the notification.

(5C) When that period has elapsed, the Commission shall determine—

- (a) to which of the applicants (if any) to let the croft; and
- (b) in consultation with the landlord, on what terms and conditions.]

[^{F17}(5D) Any letting of an unregistered croft pursuant to a determination under subsection (5C) is null and void unless an application for first registration of the croft is submitted before the expiry of the period of 3 months beginning with the date of the letting.

(5E) In relation to a registered croft—

- (a) any determination under subsection (5C) to let the croft to an applicant is, at the end of the period of 3 months beginning with the date on which the

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- determination was made, to be treated as if it had not been made unless an application for registration of the re-letting of the croft is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
- (b) the letting of the croft takes effect on the date of registration.]
- (6) Where a croft has been let on terms and conditions fixed by the Commission, the landlord may within [^{F18}28 days] from the date of the letting apply to the Land Court for a variation of the terms and conditions so fixed, and any variation made in pursuance of such application shall have effect as from the date of the letting.
- (7) Where the Commission have under subsection (5) above let a vacant croft as an enlargement of another croft, and any of the buildings on the vacant croft thereby cease to be required in connection with the occupation of the croft, the Commission shall give notice to that effect to the landlord, and thereupon—
- (a) the buildings shall cease to form part of the croft; and
- (b) the landlord may, at any time within 6 months after the giving of such notice, give notice to the Secretary of State requiring him to purchase the buildings.
- (8) If the landlord, within one month after the Commission issue a direction under section 24(2) of this Act that a croft shall cease to be a croft, gives notice to the Secretary of State requiring him to purchase the buildings on the croft, the Secretary of State shall purchase such buildings.
- (9) Where a notice has been duly given under subsection (7)(b) or (8) above, the Secretary of State shall be deemed to be authorised to purchase the buildings compulsorily and to have served notice to treat in respect thereof on the date on which the notice aforesaid was given:
- Provided that the consideration payable by the Secretary of State in respect of the purchase of the buildings shall be such sum as may be agreed by the Secretary of State and the landlord, or, failing agreement, as may be determined by the Land Court to be equal to the amount which an out-going tenant who had erected or paid for the erection of the buildings would have been entitled to receive from the landlord by way of compensation for permanent improvements in respect of the buildings as at the date on which notice was given as aforesaid to the Secretary of State requiring him to purchase the buildings.
- (10) For the purposes of this section and sections 24 and 25 of this Act, a croft shall be taken to be vacant notwithstanding that it is occupied, if it is occupied otherwise than [^{F19}by—
- (a) the tenant of the croft;
- (b) the owner-occupier crofter of the croft;
- (c) the subtenant of a sublet to which section 27 applies; or
- (d) the tenant of a let to which section 29A applies.]
- (11) The provisions of this section and sections 24 [^{F20}, 24A to 24D] and 25 of this Act shall have effect in relation to a part of a croft as they have effect in relation to a croft.
- (12) [^{F21}Subject to subsection (12A),] This section and section 24 of this Act shall have effect as if—
- (a) a person who has become the owner-occupier of a croft were required under subsection (1) above within one month of the date on which he became such owner-occupier to give notice thereof to the Commission; and

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- (b) any reference in this section and section 24 of this Act, other than in subsection (1) above, to a landlord included a reference to an owner-occupier.

[^{F22}(12A) Where the owner-occupier is an owner-occupier crofter, this section [^{F23}has] effect as if—

- (a) the owner-occupier crofter were required under subsection (1) of this section, within one month of becoming such an owner-occupier crofter, to give notice to the Commission of that fact; and
- (b) the reference to a landlord in subsection (2)^{F24}... included a reference to an owner-occupier crofter.]

Textual Amendments

- F3** S. 23(3)(3A) substituted for s. 23(3) (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 24(a), 43(3)** (with **ss. 40, 43(2)**); S.S.I. 2007/568, art. 2
- F4** S. 23(3ZA)(3ZB) inserted (30.11.2012 for specified purposes, 30.11.2013 in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(c)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(s)15)
- F5** S. 23(3A) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F6** Words in s. 23(4) inserted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(c)(i)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c)
- F7** Words in s. 23(4) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(c)(ii)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F8** Words in s. 23(4) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(c)(iii)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F9** Words in s. 23(4) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(c)(iv)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F10** Words in s. 23(5) inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 24(b)(i), 43(3)** (with **ss. 40, 43(2)**); S.S.I. 2007/568, art. 2
- F11** Words in s. 23(5) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 44(4)(a), 57(2)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F12** Words in s. 23(5) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 44(4)(b), 57(2)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F13** Words in s. 23(5) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 24(b)(ii), 43(3)** (with **ss. 40, 43(2)**); S.S.I. 2007/568, art. 2
- F14** S. 23(5ZA)-(5ZC) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 44(5), 57(2)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F15** S. 23(5ZD)(5ZE) inserted (30.11.2012 for specified purposes, 30.11.2013 in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(d)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(c)(2), sch. 1 Pt. 2 (with sch. 2 para. 15)
- F16** S. 23(5A) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 44(6), 57(2)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F17** S. 23(5D)(5E) inserted (30.11.2012 for specified purposes, 30.11.2013 in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(e)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(c)(2), sch. 1 Pt. 2 (with sch. 2 para. 15)
- F18** Words in s. 23(6) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(f)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F19** Words in s. 23(10) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(g)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F20** Words in s. 23(11) inserted (retrospective to 1.10.2011) by Crofting (Amendment) (Scotland) Act 2013 (asp 10), **ss. 3, 6, sch. para. 1(4)(a)**

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- F21** Words in s. 23(12) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(h)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F22** S. 23(12A) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(i)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F23** Word in s. 23(12A) substituted (retrospective to 1.10.2011) by Crofting (Amendment) (Scotland) Act 2013 (asp 10), ss. 3, 6, **sch. para. 1(4)(b)(i)**
- F24** Words in s. 23(12A)(b) omitted (retrospective to 1.10.2011) by virtue of Crofting (Amendment) (Scotland) Act 2013 (asp 10), ss. 3, 6, **sch. para. 1(4)(b)(ii)**

24 Decrofting in case of resumption or vacancy of croft.

- (1) This Act shall cease to apply to any land on its being resumed in pursuance of an order authorising its resumption made under section 20 of this Act by the Land Court, without prejudice, however, to the subsequent exercise of any powers conferred by this Act for the enlargement of existing crofts [^{F25}and to sections 3A and 21A of this Act] .
- (2) Where a croft has, in consequence of the making of an order under [^{F26}section 26H(1)] of this Act, become vacant and has remained unlet for a period of 6 months beginning with the date on which the croft so became vacant, the Commission shall, if the landlord at any time within 3 months after the expiry of the period aforesaid, gives notice to the Commission requiring them to do so,
- [^{F27}(a) forthwith or on the refusal of an application made under paragraph (b) below; or
- (b) at the end of such further period as the Land Court, on the application of the Commission, may allow,]
- direct that the croft shall cease to be a croft.
- [^{F28}(2ZA) But the Commission may not make a direction in accordance with subsection (2) in relation to an unregistered croft—
- (a) unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which notice under that subsection is given; and
- (b) until such an application is submitted.]
- [^{F29}(2A) Where a further period is allowed by virtue of subsection (2)(b) above, the Commission shall be liable to the landlord for an amount equal to the rent which would have been payable for the croft in respect of that period.]
- (3) Where a croft is vacant, the Commission may, on the application of the landlord, direct that the croft shall cease to be a croft or refuse to grant the application; and if the Commission direct under this subsection or under subsection (2) above that a croft shall cease to be a croft then, subject to subsection (4) below, this Act shall cease to apply to the croft, without prejudice, however, to the subsequent exercise of any powers conferred by this Act or any enactment for the enlargement of existing crofts.
- [^{F30}(3A) The Commission need not consider any application made by the landlord under subsection (3) if—
- (a) they have given notice, under section 11(8)(a) or 23(5), requiring the landlord to submit proposals for re-letting the croft and the period mentioned in section 11(8)(a) or, as the case may be, 23(5) within which such proposals must be submitted has not expired; or
- (b) no such proposals having been submitted before the expiry of that period or, such proposals having been submitted, no such proposal having been

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approved, they are proceeding in accordance with subsections (5B) and (5C) of section 23.]

[^{F31}(3B) Where a direction is applied for under subsection (3) in relation to an unregistered croft, the Commission—

- (a) may not make such a direction unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for the direction is made;
- (b) need not, during that 6 month period, consider the application for the direction until an application for first registration of the croft is submitted.

(3C) In relation to a registered croft (other than a first registered croft)—

- (a) a direction under subsection (2) or (3) (other than one under subsection (3) given by virtue of section 25(4) of this Act) expires at the end of the period of 3 months beginning with the date on which the direction was made unless an application for registration of the making of the direction is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
- (b) the direction takes effect on the date of registration.]

(4) The coming into effect of a direction given by the Commission by virtue of section 25(4) of this Act shall not affect the powers contained in the proviso to section 29(3) of this Act.

Textual Amendments

- F25** Words in s. 24(1) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(6)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F26** Words in s. 24(2) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(15)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F27** S. 24(2)(a)(b) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 23(a)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F28** S. 24(2ZA) inserted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(15)(b)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 16(1))
- F29** S. 24(2A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 23(a)(ii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F30** S. 24(3A) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 45**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F31** S. 24(3B)(3C) inserted (30.11.2012 for specified purposes, 30.11.2013 in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(15)(c)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(c)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(t)16(2))

[^{F32}24A Applications to decroft by owner-occupier crofters

- (1) An owner-occupier crofter may apply to the Commission for a decrofting direction.
- (2) In this section and in sections 24B to 24D, a “decrofting direction” is a direction that the owner-occupier's croft is to cease to be a croft.

Textual Amendments

- F32** Ss. 24A-24D inserted (retrospective to 1.10.2011) by Crofting (Amendment) (Scotland) Act 2013 (asp 10), **ss. 1(2)**, 3, 6 (with s. 5)

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24B Commission's powers in relation to applications under section 24A

- (1) The Commission may, on an application under section 24A(1), give a decrofting direction or refuse to grant the application.
- (2) But the Commission need not consider the application if—
 - (a) they have given the owner-occupier crofter a direction under section 26J(1) requiring the owner-occupier crofter to submit proposals for letting the owner-occupier's croft and the period within which such proposals must be submitted has not expired, or
 - (b) no such proposals having been submitted before the expiry of that period or, such proposals having been submitted, no such proposal having been approved, they are proceeding in accordance with subsections (7) and (8) of section 26J.
- (3) And, where the application relates to an unregistered croft, the Commission—
 - (a) may not give a decrofting direction unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for the direction is made,
 - (b) need not, during that 6 month period, consider the application for the direction until an application for first registration of the croft is submitted.

Textual Amendments

F32 Ss. 24A-24D inserted (retrospective to 1.10.2011) by [Crofting \(Amendment\) \(Scotland\) Act 2013 \(asp 10\)](#), [ss. 1\(2\)](#), 3, 6 (with s. 5)

24C Application of section 25 in relation to decrofting directions

- (1) Section 25 applies in relation to an application under section 24A(1) by an owner-occupier crofter for a decrofting direction, and to such a direction, as it applies in relation to an application under section 24(3) by a landlord of a vacant croft, and to a direction under section 24(3), subject to the modifications mentioned in subsections (2) to (4).
- (2) In subsection (1), for paragraph (b) substitute—
 - “(b) in a case where—
 - (i) the application is made in respect of a part of a croft, which consists only of the site of the dwelling-house on or pertaining to the croft, and
 - (ii) they have not previously given a direction under section 24B(1) to the applicant in relation to such a site on or pertaining to that croft,they are satisfied that the extent of garden ground included in that part is appropriate for the reasonable enjoyment of the dwelling-house as a residence;”.
- (3) In subsection (3), for the words from “land in respect” to the end substitute “direction under section 24B(1) is revoked”.
- (4) The following provisions of, or words in, section 25 do not apply—
 - (a) subsection (1)(c),

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- (b) in subsection (2), the words “or (c)”,
- (c) subsection (4),
- (d) subsections (4ZA) to (4ZD),
- (e) subsection (4A),
- (f) in subsection (6)—
 - (i) the words “or subsection (4)”,
 - (ii) the words “or only of land the conveyance in feu of which was granted under section 17 or 18 of the 1955 Act”,
- (g) in subsection (7), the words “or subsection (4)”,
- (h) subsection (8)(a)(ii).

Textual Amendments

F32 Ss. 24A-24D inserted (retrospective to 1.10.2011) by [Crofting \(Amendment\) \(Scotland\) Act 2013 \(asp 10\)](#), **ss. 1(2), 3, 6** (with [s. 5](#))

24D Effect of decrofting direction

- (1) Where a decrofting direction is given in relation to a croft, this Act ceases to apply to the croft.
- (2) But subsection (1) does not affect the subsequent exercise of any powers conferred by this Act or any other enactment for the enlargement of existing crofts.
- (3) Where the croft to which the decrofting direction relates is a registered croft (other than a first registered croft)—
 - (a) the direction expires at the end of the period of 3 months beginning with the date on which the direction was given unless an application for registration of the giving of the direction is submitted by virtue of section 5 of the 2010 Act before the expiry of that period,
 - (b) the direction takes effect on the date of registration.]

Textual Amendments

F32 Ss. 24A-24D inserted (retrospective to 1.10.2011) by [Crofting \(Amendment\) \(Scotland\) Act 2013 \(asp 10\)](#), **ss. 1(2), 3, 6** (with [s. 5](#))

25 Provisions supplementary to s.24(3).

- (1) The Commission shall give a direction under section 24(3) of this Act that a croft shall cease to be a croft if—
 - (a) subject to subsection (2) below, they are satisfied that the applicant has applied for the direction in order that the croft may be used for or in connection with some reasonable purpose (within the meaning of section 20 of this Act) having relation to the good of the croft or of the estate or to the public interest [^{F33}or to the interests of the crofting community in the locality of the croft] and that the extent of the land to which the application relates is not excessive in relation to that purpose; or

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- (b) the application is made in respect of a part of a croft, which consists only of the site of the dwelling-house on or pertaining to the croft and in respect of which a crofter is entitled at the time of the application, or has been entitled, to a conveyance by virtue of section 12(2) of this Act, and they are satisfied that the extent of garden ground included in that part is appropriate for the reasonable enjoyment of the dwelling-house as a residence ^{F34}or
- (c) the application is made in respect of a croft the conveyance in feu of which was granted under section 17 or 18 of the 1955 Act]

^{F35}(1A) In determining whether they are satisfied as mentioned in subsection (1)(a) above (and, in particular, whether the reasonable purpose mentioned there relates to the public interest), the Commission—

- (a) may take into account the effect that purpose (whether alone or in conjunction with other considerations) would have on the matters mentioned in subsection (1B) below; and
- (b) where the purpose is, or is connected with, the development of the croft in respect of which planning permission subsists, may take into account the effect such development would have on the croft, the estate and the crofting community in the locality of the croft,

and must give the direction, or refuse to grant the application for it, accordingly.

(1B) The matters mentioned in subsection (1A)(a) above are—

- (a) the sustainability of—
 - (i) crofting in the locality of the croft or such other area in which crofting is carried on as appears to the Commission to be relevant;
 - (ii) the crofting community in that locality or the communities in such an area;
 - (iii) the landscape of that locality or such an area;
 - (iv) the environment of that locality or such an area;
- (b) the social and cultural benefits associated with crofting.

(1C) In subsection (1A) above—

“development” has the meaning given by section 26 of the Town and Country Planning (Scotland) Act 1997 (c.8);

“planning permission” is to be construed in accordance with Part 3 of that Act;

“effect” includes both a positive and negative effect.]

- (2) Without prejudice to subsection ^{F36}(1)(b) or (c)] above, the Commission, in determining whether or not to give such a direction, shall have regard to the general interest of the crofting community in the district in which the croft is situated and in particular to the demand, if any, for a tenancy of the croft from persons who might reasonably be expected to obtain that tenancy if the croft were offered for letting on the open market on the date when they are considering the application.
- (3) Where the Commission give such a direction on being satisfied as mentioned in subsection (1)(a) above, they may in the direction impose such conditions ^{F37}(which may include provision as to timescales)] as appear to them requisite for securing that the land to which the direction relates is used for the proposed use; and if at any time they are satisfied that there has been a breach of any such condition, they may make a further direction that the land in respect of which there has been such a breach shall be a vacant croft.

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[^{F38}(3A) Conditions imposed by virtue of subsection (3) above may include a condition that the use be initiated by a time specified in the condition.

(3B) The Commission may from time to time modify any conditions so imposed.

(3C) No such further direction as is mentioned in subsection (3) above shall be made if—

- (a) more than 20 years have elapsed since the direction under section 24(3) of this Act;
- (b) the land, or any part of it, has, since the direction under that section, been conveyed to a person other than the former crofter or a member of the former crofter's family; or
- (c) a debt is for the time being secured by way of a standard security over, or over any real right in, the land or any part of it.]

(4) [^{F39}Subject to subsections (4ZB) and (4ZD),] The Commission may, on the application of a crofter who is proposing to acquire croft land or the site of the dwelling-house on or pertaining to his croft, give a direction under the said section 24(3) as if the land were a vacant croft and the application were made by the landlord, that in the event of such acquisition of the land it shall cease to be a croft, or refuse the application; but such a direction shall not have effect until the land to which it relates has been acquired by the crofter or his nominee and unless the acquisition is made within 5 years of the date of the giving of the direction.

[^{F40}(4ZA) Where a direction is applied for under subsection (4) in relation to an unregistered croft—

- (a) the Commission may not make such a direction unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for the direction is made;
- (b) the Commission need not, during that 6 month period, consider the application for the direction until an application for first registration of the croft is submitted.

(4ZB) Where a direction under section 24(3) is made by virtue of an application under subsection (4) in relation to a first registered croft—

- (a) the crofter who applied for the direction must, within 3 months of acquiring land or a site as mentioned in that subsection, notify the Commission of the acquisition;
- (b) the direction—
 - (i) does not have effect unless the conditions in subsection (4) are satisfied;
 - (ii) takes effect on the giving of notification of the direction under section 10(8)(c) of the 2010 Act.

(4ZC) Subsection (4ZD) applies to a direction under section 24(3) which is made—

- (a) by virtue of an application under subsection (4); and
- (b) in relation to a registered croft (other than a first registered croft).

(4ZD) The direction—

- (a) does not have effect unless—
 - (i) the conditions mentioned in subsection (4) are satisfied; and

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- (ii) an application for registration of the making of the direction is made by virtue of section 5 of the 2010 Act before the expiry of the period of 5 years mentioned in that subsection;
 - (b) takes effect, if those conditions and the condition mentioned in paragraph (a) (ii) are satisfied on or before the date of registration, on the date of registration.]
- [^{F41}(4A) Written notice of an application under subsection (4) above made in respect of a part of a croft consisting only of the site of the dwelling-house on or pertaining to the croft shall be given to the landlord by the applicant; and the Commission—
 - (a) shall not give a direction by virtue of that subsection on an application so made unless they are satisfied (in addition to what is required by subsection (1)(b) above) that; and
 - (b) may include in any such direction conditions for the purpose of ensuring that, implementation of the proposal would not prevent or impede access to another part of the croft or to other croft land.]
- (5) A direction under the said section 24(3) may be given taking account of such modification of the application in relation to which the direction is given as the Commission consider appropriate.
- (6) The Commission shall advertise all applications under the said section 24(3) or subsection (4) above (except an application made in respect of a part of a croft consisting only of the site of the dwelling-house on or pertaining to the croft [^{F42}or only of land the conveyance in feu of which was granted under section 17 or 18 of the 1955 Act]) in one or more newspapers circulating in the district in which the croft to which the application relates is situated, and before disposing of such an application shall, if requested by the applicant, afford a hearing to the applicant and to such other person as they think fit.
- [^{F43}(7) The Commission shall give both—
 - (a) notice in writing to the applicant; and
 - (b) public notification,of their direction on an application made to them under the said section 24(3) or subsection (4) above, specifying the nature of and the reasons for the direction and, as the case may be, for any conditions imposed in the direction.
- (8) As regards—
 - (a) a direction (including a condition in a direction) by the Commission on an application—
 - (i) under section 24(3) of this Act, the applicant or any member of the crofting community in the locality of the land;
 - (ii) under subsection (4) above, the applicant or the owner of the land, may within 42 days after the giving of public notification of the making of the direction;
 - (b) a modification under subsection (3B) above, of a condition which relates to land, the owner, or any tenant of the land or any member of the crofting community in the locality of the land, may within 42 days after the giving of public notification of the modification; or
 - (c) a further direction under subsection (3) above, the owner, or any tenant, of the land, may within 42 days after the making of that direction,

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appeal^{F44}..., on one or more of the grounds mentioned in section 52A(3) of this Act, to the Land Court.

- (8A) For the purposes of this section, the references in section 52A(3) to a “direction” are to be construed as including references to a modification.
- (8B) In an appeal under subsection (8) above the Court may—
- (a) confirm or revoke the direction or modification;
 - (b) direct the Commission to make a different direction or modification; or
 - (c) remit the case to the Commission without so directing them.]
- (9) The Commission shall give effect to the determination of the Land Court on an appeal under subsection (8) above.

Textual Amendments

- F33** Words in s. 25(1)(a) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 23(b)(i)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F34** S. 25(1)(c) and word added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 23(b)(ii)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F35** S. 25(1A)-(1C) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 43, 57(2)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F36** Words in s. 25(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 23(b)(iii)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F37** Words in s. 25(3) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 23(b)(iv)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F38** S. 25(3A)-(3C) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 23(b)(v)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F39** Words in s. 25(4) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(16)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(u))
- F40** S. 25(4ZA)-(4ZD) inserted (30.11.2012 for specified purposes, 30.11.2013 in force in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(16)(b)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2; S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 17)
- F41** S. 25(4A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 23(b)(vi)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F42** Words in s. 25(6) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(7)** (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F43** S. 25(7)-(8B) substituted for s. 25(7) (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 23(b)(vii)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F44** Words in s. 25(8) repealed (1.2.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 50(1)(a)**, 57(2) (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with arts. 4, 5(3))

Modifications etc. (not altering text)

- C1** S. 25(8) applied (with modifications) (31.7.2013) by Crofting (Amendment) (Scotland) Act 2013 (asp 10), **s. 4(3)(4)**, 6

26 Provisions as to removal of crofter.

- (1) When—
- (a) one year’s rent of a croft is unpaid,^{F45} ...

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(b) a crofter has broken one or more of the statutory conditions (other than the condition as to payment of rent), ^{F46}or

(c) a crofter has breached any duty mentioned in section 5AA, 5B or 5C,]

the Land Court may, on the application of the landlord and after considering any objections stated by the crofter, make an order ^{F47}—

(i) terminating the tenancy;

(ii) declaring the croft to be vacant; and

(iii) for the removal of the tenant from the croft]

^{F48}(1A) For the purposes of paragraph (c) of subsection (1)—

(a) where a crofter has sublet the croft by virtue of a lease to which section 27 applies, the crofter is deemed to comply with the duties mentioned in that paragraph (other than the duty not to misuse the croft) if the crofter's subtenant complies with the duties;

(b) where the Commission have granted consent under section 21B, the crofter is deemed to comply with the duty mentioned in section 5AA.]

(2) When a crofter whose rights to compensation for permanent improvements have been transferred in whole or in part to the Secretary of State under section 43 of this Act—

(a) has abandoned his croft; or

(b) has broken any of the statutory conditions (other than the condition as to payment of rent); or

(c) has broken any of the conditions of repayment of a loan contained in the agreement for the loan;

the Land Court may, on the application of the Secretary of State and after considering any objections stated by the crofter or the landlord, make an order for the removal of the crofter.

(3) If a crofter is removed from his croft ^{F49}(whether by virtue of this section or by virtue of section 5A or ^{F50}26H] of this Act) , the landlord shall be entitled to set off all rent due or to become due against any sum found to be due by the landlord to the crofter or to the Secretary of State for permanent improvements made on the croft.

Textual Amendments

F45 Word in s. 26(1) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(17)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F46 S. 26(1)(c) and word inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(17)(a)(ii)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F47 Words in s. 26(1) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(8)(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F48 S. 26(1A) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(17)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F49 Words in s. 26(3) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(8)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F50 Word in s. 26(3) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(17)(c)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

Changes to legislation:

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