



Crofters (Scotland) Act 1993

1993 CHAPTER 44

Provisions relating to termination of tenancy and de-crofting

20 Resumption of croft or part of croft by landlord.

- (1) The Land Court may, on the application of the landlord and on being satisfied that he desires to resume the croft, or part thereof, for some reasonable purpose having relation to the good of the croft or of the estate or to the public interest [^{F1}or the interests of the crofting community in the locality of the croft] , authorise the resumption thereof by the landlord upon such terms and conditions as it may think fit, and may require the crofter to surrender his croft, in whole or in part, to the landlord accordingly, upon the landlord making adequate compensation to the crofter either by letting to him other land of equivalent value in the neighbourhood or by compensation in money or by way of an adjustment of rent or in such other manner as the Land Court may determine.
- [^{F2}(1ZA) Where an application is made under subsection (1) to resume an unregistered croft (or any part of such a croft), the Land Court—
- (a) may not authorise the resumption 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 to resume the croft was made;
 - (b) need not, during that 6 month period, consider the application to resume the croft until an application for first registration of the croft is submitted.
- (1ZB) In relation to a registered croft, or part of such a croft, (other than a first registered croft)—
- (a) any authorisation under subsection (1) expires at the end of the period of 3 months beginning with the date on which such authorisation was given unless an application for registration of the giving of that authorisation is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
 - (b) the resumption takes effect on the date of registration.
- (1ZC) In its application to a registered common grazing, subsection (1ZB) is to be construed as if the reference in paragraph (a) to section 5 of the 2010 Act were a reference to section 25 of that Act.]

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[^{F3}(1A) A landlord making application under subsection (1) above must give notice of it to the Commission; and the Commission may, if they think fit, oppose or support the application.

[In determining whether it is satisfied as mentioned in subsection (1) above (and, ^{F4}(1AA) in particular, whether the reasonable purpose mentioned there relates to the public interest) the Land Court—

- (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 (1AC) 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 authorise, or refuse to authorise, the resumption of the croft by the landlord accordingly.

(1AB) Subsection (1AA) above is without prejudice to subsection (1D) below.

(1AC) The matters mentioned in subsection (1AA)(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 Land Court 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.

(1AD) In subsection (1AA) 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.]

(1B) Without prejudice to the generality of subsection (1) above, resumption may be authorised under that subsection for a specified period of time (such resumption being in this Act referred to as “temporary resumption” and resumption other than for a specified period of time as “ordinary resumption”) and the land shall revert to being a croft (or to being part of a croft)—

- (a) on the date on which the period (or as the case may be the period as extended under subsection (1D) below) elapses; or
- (b) on such earlier date as the Land Court may specify in an order under section 21A(1) of this Act.

(1C) Subject to subsection (1D) below, the Land Court may, on the application of the landlord, extend the period specified under subsection (1B) above.

[In relation to a registered croft, or part of such a croft—

^{F5}(1CA) (a) the granting of any extension under subsection (1C) expires at the end of the period of 3 months beginning with the date on which the extension was

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- granted unless an application for registration of the granting of the extension is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
- (b) the extension takes effect on the date of registration.
- (1CB) In its application to an extension relating to a registered common grazing, subsection (1CA) is to be construed as if the reference in paragraph (a) to section 5 of the 2010 Act were a reference to section 25 of that Act.]
- (1D) Where a planning permission granted for a limited period subsists for a change of the use of the land, being a change for which resumption was authorised, the Land Court must, on such application, extend the period so specified; but not to a date later than the end of the period specified in the condition under subsection (1)(b) of section 41 of the Town and Country Planning (Scotland) Act 1997 (c. 8) to which the permission is subject.
- (1E) In subsection (1D) above, “planning permission granted for a limited period” shall be construed in accordance with subsection (3) of that section.
- (1F) The Land Court may, on the application of the landlord made before the expiry of the specified period of time referred to in subsection (1B) above, determine that a resumption authorised as a temporary resumption is to be taken to be an ordinary resumption; and where such a determination is made—
- (a) subsections [F6(1B), (1C) and (1D)] above and the exception to subsection (2) (b) of section 21A of this Act shall cease to be applicable as respects the resumption; and
- (b) the Land Court may determine (either or both)—
- (i) that the landlord shall make further compensation under subsection (1) above;
- (ii) that the crofter shall, under section 21(1) of this Act, be entitled to a further share in the value of the land.]
- [F7(1G) In relation to a registered croft, or part of such a croft—
- (a) any determination under subsection (1F) expires at the end of the period of 3 months beginning with the date on which the determination was made unless an application for registration of the making of the determination is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
- (b) the conversion of the temporary resumption into an ordinary resumption takes effect on the date of registration.
- (1H) In its application to a determination relating to a registered common grazing, subsection (1G) is to be construed as if the reference in paragraph (a) to section 5 of the 2010 Act were a reference to section 25 of that Act.]
- (2) A sum awarded as compensation under subsection (1) above shall, if the Land Court so determines, carry interest as from the date when such sum is payable at the same rate as would apply (in the absence of any such statement as is provided for in Rule 66 of the Act of Sederunt (Rules of Court, consolidation and amendment) 1965) in the case of decree or extract in an action commenced on that date in the Court of Session if interest were included in or exigible under that decree or extract.
- (3) For the purposes of subsection (1) above “reasonable purpose” shall include—
- (a) the using, letting or [F8disposing] of the land proposed to be resumed for—
- (i) the building of dwellings;

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- (ii) small allotments;
 - (iii) harbours, piers, boat shelters or other like buildings;
 - (iv) churches or other places of religious worship;
 - (v) schools;
 - (vi) halls or community centres;
 - (vii) planting;
 - (viii) roads practicable for vehicular traffic from the croft or township to the public road or to the seashore;
 - [^{F9}(viiiia) the generation of energy;] or
 - (ix) any other purpose likely to provide employment for crofters and others in the locality;
- (b) the protection of an ancient monument or other object of historical or archaeological interest from injury or destruction.
- (4) Where an application is made, with the consent of a majority of the persons sharing in a common grazing and with the approval of the Commission, for authority to resume any land forming part of the common grazing for the purpose of using, letting or otherwise disposing of it for the planting of trees, the Land Court shall not withhold its authority for such resumption.
- (5) Where a grazings committee have, under section 48(4) of this Act, planted trees on land forming part of a common grazing, it shall not be competent for an application to be made under subsection (1) above in respect of that land while it continues to be used as woodlands.

Textual Amendments

- F1** Words in s. 20(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 22(1)(a)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F2** S. 20(1ZA)-(1ZC) 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(11)(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(r)13)
- F3** S. 20(1A)-(1F) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 22(1)(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F4** S. 20(1AA)-(1AD) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 42**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F5** S. 20(1CA)(1CB) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(11)(b)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2
- F6** Words in s. 20(1F) substituted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(11)(c)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2
- F7** S. 20(1G)(1H) added (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(11)(d)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2
- F8** Word in s. 20(3)(a) substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 55(5)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F9** S. 20(3)(a)(viiiia) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 22(1)(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

21 Crofter's right to share in value of land resumed by landlord.

- (1) Where the Land Court authorises the resumption of a croft or a part thereof under section 20 of this Act, the crofter shall be entitled to receive from the landlord, in

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addition to any compensation payable to him under that section, a share in the value of the land so resumed the amount whereof shall be one half of the difference between, subject to subsection (5) below, the market value of the land (on the date on which resumption thereof is so authorised) as determined by the Land Court in accordance with subsections (2) and (3) below (less any compensation payable as aforesaid) and the crofting value thereof.

[^{F10}(1A) If it thinks fit the Land Court may, having regard to how the purpose for which resumption is authorised is to be carried out, determine that a sum awarded under this section shall be payable in instalments of such amounts and on such dates as it shall specify in the determination.

(1B) On making a determination under subsection (1A), the Land Court shall intimate to the Commission that it has done so and provide them with a copy of the determination; and the Commission shall enter that copy in the Register of Crofts.

(1C) When so entered the determination shall bind any successor to the landlord as it binds the landlord.]

(2) Where the resumption of the land is so authorised for some reasonable purpose which has been or is to be carried out by the landlord or by any person not being an authority possessing compulsory purchase powers, the market value for the purposes of subsection (1) above shall be a sum equal to the amount which the land, if sold in the open market by a willing seller, might be expected to realise.

(3) Where the resumption is so authorised for some reasonable purpose which has been or is to be carried out by an authority possessing compulsory purchase powers (not being the landlord) on the acquisition by them of the land so resumed, the market value for the purposes of subsection (1) above shall be a sum equal to the amount of compensation payable by the authority to the landlord in respect of the acquisition:

Provided that, where the land so resumed forms part only of the land acquired from the landlord by the authority, the market value shall be a sum equal to such amount as the Land Court may determine to be the proportion of the amount of compensation so payable by the authority which relates to the land so resumed.

(4) Where the land so resumed forms or forms part of a common grazing—

(a) the share of the value of that land payable to the crofters sharing in the common grazing shall be apportioned among such crofters according to the proportion that the right in the common grazing of each such crofter bears to the total of such rights;

(b) any sum so apportioned to such a crofter shall be deemed to be the share in the value of such land resumed to which he is entitled under subsection (1) above, and

(c) the share so payable shall, if a grazings committee or a grazings constable has been appointed under section 47 of this Act, be paid by the landlord to the clerk of the committee or the constable for distribution by him among the crofters concerned:

Provided that, if any crofter wishes the proportion of the share payable to him to be paid directly to him by the landlord, the landlord shall comply with his wishes.

(5) For the purposes of this section, where any development has been carried out by any person, other than the crofter or any of his predecessors in the tenancy, on the land which the Land Court has authorised the landlord to resume before such authorisation,

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there shall be deducted from the market value such amount thereof as, in the opinion of the Land Court, is attributable to that development.

- (6) A sum awarded under this section shall, if the Land Court so determines, carry interest as from the date when such sum is payable [^{F11}, or in the case of payment by instalments as from the date when the unpaid balance of such sum is payable,] at the same rate as would apply (in the absence of any such statement as is provided for in Rule 66 of the ^{M1}Act of Sederunt (Rules of Court, consolidation and amendment) 1965) in the case of a decree or extract in an action commenced on that date in the Court of Session if interest were included in or exigible under that decree or extract.
- (7) In this section—
- “crofting value”, in relation to land resumed, has the same meaning as it has in section 14 of this Act in relation to croft land;
- “reasonable purpose” has the same meaning as in section 20(3) of this Act.

Textual Amendments

F10 S. 21(1A)-(1C) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 22(2)(a), 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F11 Words in s. 21(6) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), ss. 22(2)(b), 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Marginal Citations

M1 S.I. 1965/321.

[^{F12}21A Reversion of resumed land

- (1) The Land Court may, on the application of any relevant person and on being satisfied that the conditions specified in subsection (2) below are met, make an order that land resumed by virtue of section 20(1) of this Act shall revert to being a croft (or to being part of a croft).

[In relation to land which, before being resumed as mentioned in subsection (1), was ^{F13}(1A) an unregistered croft (or part of such a croft), an order under that subsection does not take effect until the croft is registered by virtue of section 4 of the 2010 Act.

- (1B) In relation to land which, before being resumed as mentioned in subsection (1), was a registered croft (or part of such a croft)—
- (a) an order under that subsection expires at the end of the period of 3 months beginning with the date on which the order was made unless an application for registration of the making of the order is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
- (b) the order takes effect on the date of registration.
- (1C) In its application to a registered common grazing, subsection (1B) is to construed as if the reference in paragraph (a) to section 5 of the 2010 Act were a reference to section 25 of that Act.]

- (2) The conditions are—
- (a) no 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;

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- (b) except in the case of a temporary resumption, not less than 5 nor more than 20 years have elapsed since the resumption of the croft was authorised;
- (c) the purpose for which the landlord desired to resume the croft has not been carried out;
- (d) no planning permission relating to a change of the use of the land subsists;
- (e) the land remains suitable for use by crofters for cultivation; and
- (f) the land is owned by the person who was authorised to resume the croft.

^{F14}(3)

- (4) Where land reverts by virtue of subsection (1) above, the Land Court may make such order (if any) as it thinks fit as to the repayment, in whole or in part, of any sum awarded as compensation under section 20(1), or any share in value paid by virtue of section 21(1), of this Act.
- (5) Where land which reverts by virtue of subsection (1) above or under section 20(1B) of this Act comprises a common grazing, the Land Court may make such order as it thinks fit as to shares in the common grazing.
- (6) “Relevant person” in subsection (1) above means the Commission, the landlord, the person who surrendered the land or, where the land comprises a common grazing, the owner or the grazings committee.]

Textual Amendments

- F12** S. 21A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 22(3)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F13** Ss. 21A(1A)-(1C) 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(12)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(c)(2), sch. 1 Pt. 2 (with sch. 2 para. 14)
- F14** S. 21A(3) repealed (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(12)(b)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

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