Crofters (Scotland) Act 1993

1993 CHAPTER 44

An Act to consolidate certain enactments relating to crofting, with amendments to give effect to recommendations of the Scottish Law Commission. [5th November 1993]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)
C1 Act applied (6.7.1997) by 1997 c. 26, **ss. 7(2)**, 8(3); S.I. 1997/1430, **art. 1**

Commencement Information
I1 Act (except s.28) wholly in force at 05.01.1994 see s.64(2) and s.28(17)

The Crofters Commission

1 Constitution and general functions of Crofters Commission.

(1) The Crofters Commission ("the Commission") established by section 1 of the 1955 Act shall continue in being.

[F1(2) The Commission have—

(a) the general functions of—

(i) regulating crofting;

(ii) reorganising crofting;

(iii) promoting the interests of crofting;

(iv) keeping under review matters relating to crofting; and

(b) such other functions conferred on them by or under this Act or under any other enactment.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(2A) In exercising their functions under subsection (2), the Commission must have regard to—

(a) the desirability of supporting population retention—

(i) in the crofting counties; and

(ii) in any area for the time being designated as mentioned in section 3A(1)(b) and in which there are crofts; and

(b) the impact of changes to the overall area of land held in crofting tenure on the sustainability of crofting.**]**

[F2(3) The Commission shall discharge their functions in accordance with such directions of a general or specific character as may from time to time be given to them in writing by the Scottish Ministers.**]**

F3(4) . . . . . .

F3(5) . . . . . .

(6) The provisions contained in Schedule 1 to this Act shall have effect in relation to the Commission.

Textual Amendments

F1 S. 1(2)(2A) substituted for s. 1(2) (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 2(1)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F2 S. 1(3) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 1**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F3 S. 1(4)(5) repealed (1.4.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(2)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 2 (with art. 4)

2 Particular powers and duties of the Commission.

(1) In the exercise of their general functions of reorganising, F4... and regulating crofting, it shall be the duty of the Commission—

(a) to keep under general review all matters relating to crofts and crofting conditions, including, without prejudice to the foregoing generality, land settlementF5...;

(b) to collaborate so far as their powers and duties permit with any body or person in the carrying out of any measures for the economic development and social improvement of the crofting counties;

(c) to advise the Secretary of State on any matter relating to crofts and crofting conditions which he may refer to them, or on which they may think fit to submit advice to him;

(d) to exercise the powers conferred on them by this Act in such manner as may seem to them in each case desirable.

F6(2) . . . . . .

(3) The Commission shall send to the principal clerk of the Land Court to be recorded in the Crofters Holdings Book every order, determination, consent, authorisation or other proceeding of theirs which they may think proper to be recorded therein.

F7(4) . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F4 Word in s. 2(1) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(3)(a)(i)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F5 Words in s. 2(1)(a) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(3)(a)(ii)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F6 S. 2(2) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(3)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 47)

F7 S. 2(4) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(3)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 47)

[F8 2A Ministers' power to modify functions of Commission

(1) The Scottish Ministers may, by order—

(a) confer functions on;

(b) remove functions from;

(c) otherwise modify functions of,

the Commission.

(2) The Scottish Ministers may make an order under subsection (1) only where they consider it appropriate to do so to ensure that the Commission carry out their functions efficiently and effectively.

(3) An order under subsection (1) may—

(a) confer on the Commission a function exercisable under this Act by the Scottish Ministers (other than a function to make regulations or orders);

(b) modify any enactment (including this Act).

Textual Amendments

F8 Ss. 2A-2D inserted (1.10.2011 for the insertion of s. 2A, 1.4.2012 in force in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 2(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4); S.S.I. 2011/334, art. 3, sch. Pt. 2 (with art. 4, art. 5(2)(3))

2B Annual report

(1) The Commission must make an annual report, on the exercise by them of their functions, to the Scottish Ministers.

(2) That report must also contain the Commission's assessment of—

(a) the issues affecting crofting communities; and

(b) the contribution crofting has made to sustainable development.

(3) Before making an annual report, the Commission must consult—

(a) each local authority in the area of which there are crofts; and

(b) Highlands and Islands Enterprise.

(4) The Scottish Ministers must lay before the Scottish Parliament a copy of each annual report made to them under this section together with any comments on the report that they consider appropriate.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F8 Ss. 2A-2D inserted (1.10.2011 for the insertion of s. 2A, 1.4.2012 in force in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 2(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4); S.S.I. 2011/334, art. 3, sch. Pt. 2 (with art. 4, art. 5(2)(3))

2C Duty to produce plan

(1) The Commission must, before the expiry of the period mentioned in subsection (2), prepare and submit to the Scottish Ministers a plan setting out their policy on how they propose to exercise their functions.

(2) That period is the period of 6 months beginning with the day after—

(a) the day of the first election held in accordance with paragraph 7 of schedule 1 to elect persons to be members of the Commission;

(b) the day of each subsequent election.

(3) The Commission must, before preparing a plan under this section, consult—

(a) each local authority in the area of which there are crofts;

(b) Highlands and Islands Enterprise; and

(c) such other persons or bodies as the Commission consider appropriate.

(4) The Scottish Ministers may—

(a) approve the plan (with or without modifications); or

(b) reject the plan and direct the Commission to submit a revised plan.

(5) Where the Scottish Ministers approve the plan submitted under subsection (1) (including a revised plan submitted under subsection (4)(b)), the Commission must—

(a) send a copy of it to each local authority in the area of which there are crofts;

(b) make a copy of it available for public inspection at reasonable times; and

(c) publish it in such manner as the Commission consider appropriate.

(6) The Commission—

(a) may, from time to time;

(b) must, if required to do so by the Scottish Ministers,

vary the plan.

(7) Where the Commission, under subsection (6), vary the plan—

(a) the Commission must submit it to the Scottish Ministers; and

(b) subsections (3) to (5) apply to the variation of a plan as they apply to the preparation of a plan under subsection (1).

Textual Amendments

F8 Ss. 2A-2D inserted (1.10.2011 for the insertion of s. 2A, 1.4.2012 in force in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 2(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4); S.S.I. 2011/334, art. 3, sch. Pt. 2 (with art. 4, art. 5(2)(3))

2D Status of plan

(1) The Commission, in exercising their functions, must have regard to any plan approved and published under section 2C.

(2) The Land Court may have regard to any such plan when considering an appeal against—

(a) any decision, determination or direction of; or

(b) the imposition of a condition by,

the Commission on an application made to them under this Act.**]**

Textual Amendments

F8 Ss. 2A-2D inserted (1.10.2011 for the insertion of s. 2A, 1.4.2012 in force in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 2(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4); S.S.I. 2011/334, art. 3, sch. Pt. 2 (with art. 4, art. 5(2)(3))

Meaning of croft and crofter

3 Meaning of croft and crofter.

(1) Subject to subsection (2) below **[**F9and to section 3ZA(2)(a)**]** , in this Act "croft" means—

(a) as from 1st October 1955, every holding (whether occupied by a landholder or not) situated in the crofting counties to which any of the provisions of the Small Landholders (Scotland) Acts 1886 to 1931 relating to landholders applied;

(b) as from 1st October 1955, every holding situated as aforesaid to which section 32 of the M1Small Landholders (Scotland) Act 1911 applied (statutory small tenants);

(c) as from the date of registration, every holding situated as aforesaid which was constituted a croft by the registration of the tenant thereof as a crofter in the Crofters Holdings Book under section 4 of the 1955 Act;

[F10(cc) as from the date of registration, every holding situated—

(i) as aforesaid; or

(ii) as is mentioned in subsection (1)(b) of section 3A of this Act,

and registered by virtue of an application under that section;

(cd) as from the date of reversion, every holding reverting under section 20(1B), or by virtue of section 21A(1), of this Act;**]**

(d) as from the date of the direction, every holding situated **[**F11in the crofting counties**]** which was constituted a croft by a direction of the Secretary of State under section 2(1) of the 1961 Act;

(e) as from the date of entry, every holding entered in the register of crofts by the Commission in accordance with their decision under section 15(4) of the 1955 Act where—

(i) the decision was notified to the landlord and the tenant of the holding; and

(ii) neither the landlord nor the tenant successfully challenged the decision on an application for a declarator as to the status of the

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

tenant made to the Land Court within 2 months of the giving of such notification.

[F12(f) as from the relevant commencement date, every holding—

(i) entered in the Register of Crofts on that date which has been so entered for a continuous period of at least twenty years ending with that date; and

(ii) in respect of which no application or reference seeking a declaration or order that the holding is not a croft is on that date pending before any court;

(g) as from the date twenty years after registration, every holding—

(i) entered in the Register of Crofts for a continuous period of twenty years ending after the relevant commencement date; and

(ii) in respect of which no application or reference seeking a declaration or order that the holding is not a croft is at the end of that period pending before any court**]**

[F13(1A) In paragraphs (f) and (g) of subsection (1) above, "the relevant commencement date" is the date on which section 21 of the Crofting Reform etc. Act 2007 (asp 7) comes into force.**]**

(2) Subsection (1) above is without prejudice to the effect of—

(a) section 24(1) of this Act and the corresponding provision of the 1955 Act which is repealed by this Act (that is to say section 12(4));

(b) a direction under section 24(2) or (3) **[**F14or 24B(1)**]** of this Act and the corresponding provisions of the 1955 Act which are repealed by this Act (that is to say section 16(7) or (9)).

(3) **[**F15Subject to section 3ZA(2)(c),**]** In this Act "crofter" means the tenant of a croft.

(4) For the purposes of this Act—

(a) any right in pasture or grazing land held or to be held by the tenant of a croft, whether alone or in common with others, and

(b) any land comprising any part of a common grazing which has been apportioned for the exclusive use of a crofter under section 52(4) of this Act, and,

(c) any land held runrig which has been apportioned under section 52(8) of this Act,

shall be deemed to form part of the croft.

(5) For the purposes of this Act, where—

(a) a crofter has acquired his entire croft other than any such right or land as is referred to in subsection (4) above; or

(b) any person, not being a crofter, has obtained an apportionment of any land under section 52 of this Act,

then the person referred to in paragraph (a) or (b) above shall be deemed to hold the right or land referred to therein in tenancy until held otherwise and that right or land shall be deemed to be a croft.

Textual Amendments

F9 Words in s. 3(1) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 22(1)(a)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

F10 S. 3(1)(cc)(cd) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 21(a)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F11 Words in s. 3(1)(d) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 21(a)(ii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F12 S. 3(1)(f)(g) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 21(a)(iii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F13 S. 3(1A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 21(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F14 Words in s. 3(2)(b) inserted (retrospective to 1.10.2011) by Crofting (Amendment) (Scotland) Act 2013 (asp 10), ss. 3, 6, **sch. para. 1(2)**

F15 Words in s. 3(3) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 22(1)(b)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

Marginal Citations

M1 1911 c. 49.

[F16 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.**]**

Textual Amendments

F16 S. 3ZA inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 22(2)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

[F17 3A New crofts

(1) The Commission shall have power, on the application of the owner of any land situated—

(a) in the crofting counties; or

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(b) in an area outwith the crofting counties which is, by order made by statutory instrument, designated for the purposes of this paragraph by the Scottish Ministers,

to constitute the land as a croft [F18]....

(2) The Commission shall have power—

(a) on the application of the tenant of any holding situated as is mentioned in subsection (1)(b) above; and

(b) provided that subsection (3) below is complied with and that the conditions set out in subsection (12) below are met,

to constitute the holding as a croft [F19]....

(3) Any application under subsection (2) above must be accompanied by a certificate of the Land Court to the effect that the Court is satisfied that, as at the date of the certificate—

(a) the tenancy of the holding is one to which—

(i) section 32 of the Small Landholders (Scotland) Act 1911 (c. 49) applies; or

(ii) any of the provisions of the Small Landholders (Scotland) Acts 1886 to 1931 applies; and

(b) no part of the holding is leased other than as a tenancy mentioned in paragraph (a) above.

[F20](4) . . . . . .

(5) The Commission shall, on receipt of an application under subsection (1) or (2) above, give public notification of it.

(6) Notification under subsection (5) above shall specify a period within which comments as regards the application, being comments of the description given in subsection (10) below, may be made.

(7) After the period mentioned in subsection (6) above has elapsed the Commission shall—

(a) determine whether to exercise their power under subsection (1) or as the case may be (2) above; and

(b) give public notification of that determination.

(8) In so determining, the Commission shall have regard to—

(a) such comments, if any, as are duly made by virtue of subsection (6) above;

(b) the public interest and as the case may be the interests of the crofting community in the locality of the land; and

(c) whether social or economic benefits might be expected as a consequence of so constituting it.

(9) No application is to be made under subsection (1) above in respect of an agricultural holding occupied by a tenant where—

(a) the tenancy is—

(i) a 1991 Act tenancy (within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11)); or

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(ii) a short limited duration tenancy**[**[F21], limited duration tenancy, modern limited duration tenancy or repairing tenancy**]** (within the meaning of that Act); or

(b) it is competent for the tenant to make an application under subsection (2) above,

if the written agreement of the tenant has not been obtained; and on such a holding being constituted as a croft under subsection (1) above the tenant shall be entitled (unless not a natural person) to be registered, in accordance with section 41(2)(b) of this Act, as its tenant.

(10) The description is that the comments are made in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape).

(11) For the purposes of subsection (10) above (and without prejudice to the generality of that subsection), comments are to be treated as made in writing where they are—

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.

(12) The conditions are—

[F22](a) . . . . . .

(b) that the tenant is a natural person; and

(c) that such fixed equipment on the holding as is necessary to enable the tenant to cultivate the croft is not provided by the landlord.

(13) An order under subsection (1)(b) above is not made unless a draft of the statutory instrument containing the order has been—

(a) laid before; and

(b) approved by a resolution of,

the Scottish Parliament.

Textual Amendments

F17 Ss. 3A-3C inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 6**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F18 Words in s. 3A(1) repealed (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 23(2)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 2)

F19 Words in s. 3A(2) repealed (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 23(2)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 2)

F20 S. 3A(4) repealed (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 23(3)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 2)

F21 Words in s. 3A(9)(a)(ii) substituted (30.11.2017) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 4(2)** (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 9)

F22 S. 3A(12)(a) repealed (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(4)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

[

F23 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.**]**

Textual Amendments

F17 Ss. 3A-3C inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 6**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F23 S. 3AA inserted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 23(4)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 2)

3B Compensation for constituting holding outwith crofting counties as croft on application of tenant

(1) Where, in relation to an application under subsection (2) of section 3A of this Act, there is no such agreement as is mentioned in **[**F24section 3AA(3)(a) or (b)**]** , the compensation payable by the applicant to the owner in compensation for the holding being constituted as a croft is to be the difference between—

(a) the value of the holding assuming that it is not to be so constituted; and

(b) its value assuming that it is so constituted,

and is to be assessed by a valuer appointed by the applicant and the owner.

(2) But where the applicant and the owner are unable to agree as to such an appointment the valuer is to be appointed by the Land Court or by a person nominated by the Court.

(3) The valuer is to assess the value of the holding—

(a) as at the date of the relevant application under section 3A(2);

(b) having regard to the value that would be likely to be agreed between a reasonable buyer and seller of such a holding assuming—

(i) that the buyer and seller are, as respects the transaction, willing; and

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(ii) that the buyer is a sitting tenant;

(c) taking account, in so far as a buyer and a seller of the holding would do so, of any factor attributable to the known existence of a person who (not being the applicant) would be willing to buy the holding at a price higher than other persons because of a characteristic of the holding which relates peculiarly to that person's interest in buying it; and

(d) taking account of the terms and conditions of any lease of sporting interests affecting the land.

(4) The valuer is to invite the owner and the applicant to make written representations about the valuation of the holding under this section and is to have regard to any such representation.

(5) The valuer may—

(a) enter onto land; and

(b) make any reasonable request of the owner or the applicant,

for the purpose of any assessment under this section.

(6) The valuer must, within 6 weeks after being appointed, send to the owner and the applicant a notice in writing specifying the compensation payable and setting out how its amount was calculated.

(7) The expenses of the valuer accrued in carrying out his functions under this section are to be met by the applicant.

(8) In this section "valuer" includes two valuers with an oversman.

Textual Amendments

F17 Ss. 3A-3C inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 6**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F24 Words in s. 3B(1) substituted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 23(5)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 2)

3C Appeal against assessment under section 3B

(1) The owner or the applicant may appeal to the Lands Tribunal for Scotland against an assessment carried out under section 3B.

(2) An appeal under this section—

(a) shall state the grounds on which it is made; and

(b) shall not be lodged more than 21 days after the date of the notice under section 3B(6) of this Act.

(3) In an appeal under this section, the tribunal may reassess any value (and any factor affecting any value).

(4) The valuer may be a witness in the appeal proceedings.

(5) And in those proceedings, in addition to the owner and the applicant, any creditor in a standard security over the land or any part of it is entitled to be heard.

(6) The tribunal is to give reasons for its decision on an appeal under this section and is to issue a written statement of those reasons.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(7) The decision of the tribunal in an appeal under this section is final.**]**

Textual Amendments

F17 Ss. 3A-3C inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 6**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Enlargement of crofts

[F25 4 Enlargement of crofts

(1) This section applies where an owner of land—

(a) which is not a croft; and

(b) which does not form part of a croft,

agrees to grant a tenancy of that land to a crofter.

(2) The owner and the crofter may apply jointly to the Commission for a direction that the land is to form part of a croft of which the crofter is tenant.

(3) Where a croft such as is mentioned in subsection (2) is an unregistered croft, the Commission—

(a) must not make a direction under subsection (4) 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.

(4) The Commission may make a direction if they are satisfied that the enlargement of the croft—

(a) would be of benefit to the croft or to the crofter;

(b) would not result in the area of the enlarged croft substantially exceeding 30 hectares.

(5) Where the Commission make a direction in relation to an unregistered croft or a first registered croft, the land forms part of the croft with effect from the later of—

(a) the date of the direction; or

(b) the date of entry under the tenancy.

(6) Where the Commission make a direction in relation to 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 is made unless an application for registration of the enlargement of the croft is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the enlargement takes effect on the date of registration.

(7) For the purposes of section 6 and paragraph 1 of schedule 2, the rent payable for the enlarged croft is the rent agreed by the landlord and the crofter.

(8) In subsections (5) and (6), "first registered croft" means a croft mentioned in section 5(2) of the 2010 Act.**]**

Textual Amendments

F25 S. 4 substituted (1.10.2011 for specified purposes, 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), **ss. 46**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(3)); S.S.I. 2012/288, art. 3(1)(b), (2), Sch. 1 Pt. 2 (with sch. 2 para. 1(k), (l)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 7)

[F26 Exchange of crofts

Textual Amendments

F26 S. 4A and cross-heading inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 9**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

4A Exchange of crofts or parts of crofts

(1) A crofter may not exchange his croft (or any part of his croft) for another croft (or part of another croft) unless—

(a) he obtains the consent of—

(i) the landlord of his croft; and

(ii) the Commission;

(b) the exchanging crofters have the same landlord; and

(c) that landlord is the owner of any common grazing in which the crofters share.

(2) The consent of the Commission shall not be given unless they are satisfied that the consent mentioned in paragraph (a)(i) of subsection (1) above has been obtained.

[Where consent is applied for under subsection (1) in relation to an unregistered croft
F27(2A) (or any part of such a croft), the Commission—

(a) may not grant that consent 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 consent was made;

(b) need not, during that 6 month period, consider the application for consent until an application for first registration of the croft is submitted.

(2B) In relation to a registered croft, or any part of such a croft, (other than a first registered croft)—

(a) any consent of the Commission to the exchange of the croft expires at the end of the period of 3 months beginning with the date on which such consent was given unless an application for registration of the exchange of the croft is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the exchange takes effect on the date of registration.**]**

F28(3) . . . . . .

(4) A new croft is not created by virtue only of such exchange.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F27 S. 4A(2A)(2B) 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(5)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(c)(2), sch. 1 Pt. 2 (with sch. 2 paras. 1(m)9)

F28 S. 4A(3) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(5)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

The conditions of tenure

5 The statutory conditions.

(1) Every tenancy of a croft shall be subject to the conditions set out in Schedule 2 to this Act (in this Act referred to as "the statutory conditions").

F29(1A) . . . . . .

(2) A crofter shall not be subject to be removed from the croft of which he is tenant except—

(a) where one year's rent of the croft is unpaid;

(b) in consequence of the breach of one or more of the statutory conditions, other than the condition as to payment of rent; or

(c) in pursuance of any enactment, including any enactment contained in this Act.

F30(2A) . . . . . .

F31(2B) . . . . . .

[F32(3) Any contract or agreement made by a crofter by virtue of which he is deprived of any right conferred on him by—

(a) a provision of this Act not mentioned in paragraph (b) below, shall to that extent be void unless the contract or agreement is approved by the Land Court;

(b) any of sections 8, 12 to 19, 21 and 37 of this Act, may be intimated to the Commission by a party to the agreement (the intimation being in such form as the Commission may specify and there being provided to the Commission, along with the intimation, a copy of the contract or agreement).

(4) On giving approval under subsection (3)(a) above, the Land Court shall intimate to the Commission that it has done so and provide them with a copy of the contract or agreement.

(5) On receiving a copy, provided under subsection (3)(b) or (4) above, of a contract or agreement the Commission shall enter the copy in the Register of Crofts.

(6) Where a copy is so entered then, subject to the terms of the contract or agreement, the deprival in question is binding on the successors to the crofter's interest.

F33(7) . . . . . .

F33(8) . . . . . .

F33(9) . . . . . .

F33(10)**]** . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F29 S. 5(1A) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(6)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F30 S. 5(2A) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(6)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F31 S. 5(2B) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(6)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F32 S. 5(3)-(10) substituted for s. 5(3) (25.6.2007 for specified purposes, 28.1.2008 in force in so far as not already in force) by Crofting Reform etc. Act 2007 (asp 7), **ss. 7(1)(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.; S.S.I. 2007/568, art. 2

F33 S. 5(7)-(10) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(6)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

[F34 5A Complaint as respects breach of the statutory conditions

(1) Without prejudice to any right which the landlord has to initiate proceedings in relation to a breach of the statutory conditions as respects a croft, the landlord or any member of the crofting community in the locality of the croft may complain to the Commission that such a breach (other than a breach of the condition as to payment of rent) has occurred.

(2) Provided—

(a) that no proceedings—

(i) such as are mentioned in subsection (1) above; or

(ii) under **[**F35 section 26C**]** of this Act,

have been initiated; and

(b) that the period allowed the crofter by virtue of subsection (4) below has elapsed,

the Commission may make an application to the Land Court in relation to the breach; but this subsection is subject to subsection (3) below.

(3) Except where the complaint was by the landlord, the Commission shall give him written notice of their intention to make the application; and if within 14 days after receipt of that notice he gives them intimation that he objects, being intimation of the description given in subsection (7) below, they shall not proceed with the application.

(4) Before making the application, the Commission shall give written notice to the crofter of the breach complained of and give him the opportunity to remedy it within such reasonable period as they shall specify in the notice.

(5) Where, on an application under subsection (2) above, the Land Court is satisfied that the breach complained of has occurred, it may—

(a) order that the breach be remedied and specify a time within which that must occur; and

(b) make such order regarding the payment of compensation by the crofter to the landlord as it thinks fit.

(6) Where an order under subsection (5)(a) above is not complied with, the Commission may apply to the Land Court for an order—

(a) terminating the tenancy;

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(b) declaring the croft to be vacant; and
(c) for the removal of the tenant from the croft.

(7) The description is that the intimation is given in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape).

(8) For the purposes of subsection (7) above (and without prejudice to the generality of that subsection), an intimation is to be treated as given in writing where it is—
(a) transmitted by electronic means;
(b) received in legible form; and
(c) capable of being used for subsequent reference.

Textual Amendments

F34 Ss. 5A, 5B inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 8**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F35 Words in s. 5A(2)(a)(ii) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(7)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

[F36 Crofters' duties relating to residency, use, misuse and neglect of crofts

Textual Amendments

F36 S. 5AA and cross-heading inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 33(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

5AA Crofters: residency duty

A crofter must be ordinarily resident on, or within 32 kilometres of, that crofter's croft.**]**

[F37 5B Termination of tenancy for misuse or neglect

(1) A crofter must not misuse or neglect the crofter's croft.

(2) A crofter misuses a croft where the crofter—
(a) wilfully and knowingly uses it otherwise than for the purpose of its being cultivated or put to such other purposeful use as is consented to under section 5C(4);
(b) fails to use the croft for the purposes of its being cultivated; or
(c) fails to put the croft to any such purposeful use.

(3) A crofter neglects a croft where the croft is not managed so as to meet the standards of good agricultural and environmental condition referred to in regulation 4 of, and the schedule to, the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004 (SSI 2004 No. 518).

(4) But where the crofter, in a planned and managed manner, engages in, or refrains from, an activity for the purpose of conserving—
(a) the natural beauty of the locality of the croft; or

(b) the flora and fauna of that locality,

the crofter's so engaging or refraining is not to be treated as misuse or neglect as respects the croft.

(5) If, immediately before the coming into force of section 7 of the Crofting Reform etc. Act 2007 (asp 7), the croft was being used for a subsidiary or auxiliary occupation by virtue of the right conferred by paragraph 3 of schedule 2 to this Act (as that paragraph then applied), any continuation of use for that occupation is not to be treated as misuse or neglect as respects the croft.

(6) The Scottish Ministers may, by order, amend the meaning of neglect in subsection (3) so as to substitute different standards for those for the time being mentioned in that subsection.**]**

Textual Amendments

F37 Ss. 5B, 5C substituted for s. 5B (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 33(3)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

[F36 5C Crofters: duty to cultivate and maintain

(1) A crofter must comply with each of the duties set out in subsection (2).

(2) Those duties are that the crofter—

(a) must—

(i) cultivate the croft; or

(ii) put it to another purposeful use,

so that every part of the croft which is capable of being cultivated or put to another purposeful use either is cultivated or is put to such use;

(b) must keep the croft in a fit state for cultivation (except in so far as the use of the croft for another purposeful use is incompatible with the croft being kept in such a state).

(3) Without prejudice to the generality of paragraph (b) of subsection (2), in determining whether that paragraph is complied with, regard is to be had to whether appropriate measures (which may include the provision of drainage) are routinely undertaken, where requisite and practicable, to control or eradicate vermin, bracken, whins, broom, rushes and harmful weeds.

(4) A crofter may only put the croft to a use mentioned in subsection (2)(a)(ii) if—

(a) the landlord has consented to the use (unconditionally or subject to conditions acceptable to the crofter); or

(b) the Commission have consented to the use.

(5) But a crofter may not apply to the Commission for consent under subsection (4)(b) until—

(a) the landlord has refused consent (or granted consent subject to conditions unacceptable to the crofter); or

(b) the period of 28 days, commencing with the date on which the request for the consent of the landlord was made, has expired,

whichever occurs first.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(6) The Commission must, on receipt of such an application for consent—

(a) consult, as regards the proposed purposeful use, the landlord and the members of the crofting community in the locality of the land; and

(b) if the proposed purposeful use—

(i) constitutes a change for which planning permission is required; or

(ii) by virtue of any enactment (other than this Act) requires any other permission or approval,

require it to be shown that the permission or approval has been given.

(7) The Commission must decide the application within 28 days after receiving it; and if they give their consent may impose such conditions as they think fit.

(8) In this Act—

"cultivate" includes the use of a croft for horticulture or for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, the growing of fruit, vegetables and the like and the planting of trees and use of the land as woodlands;

"purposeful use" means any planned and managed use which does not adversely affect—

(a) the croft;

(b) the public interest;

(c) the interests of the landlord or (if different) the owner; or

(d) the use of adjacent land.**]**

Textual Amendments

F37 Ss. 5B, 5C substituted for s. 5B (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 33(3)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

6 Rent.

(1) The rent payable by a crofter as one of the statutory conditions shall be the yearly rent, including money and any prestations other than money, payable for the year current at the commencement of this Act or, in the case of a croft let after the commencement of this Act, fixed at the date of the letting, unless and until that rent is altered in accordance with the provisions of this Act.

(2) The rent may be altered by agreement in writing between the landlord and the crofter to such amount and for such period as may be so agreed; and thereupon the rent so agreed shall be the rent payable by the crofter so long as the agreement subsists and thereafter so long as—

(a) no new agreement between the landlord and the crofter shall have been made; or

(b) no different rent shall have been fixed by the Land Court under this Act.

(3) The Land Court may, on the application of the crofter or the landlord, determine what is a fair rent to be paid by the crofter to the landlord for the croft **[**[F38]or for any part of the croft**]** , and may pronounce an order accordingly; and the rent so fixed by the Land Court shall be the rent payable by the crofter as from the first term of Whitsunday or Martinmas next succeeding the decision of the Land Court:

Provided that—

(a) where the rent payable for the croft **[**F39or for any part of the croft**]** has been fixed by the Land Court it shall not be altered, except by mutual agreement between the crofter and the landlord, for a period of 7 years from the term at which it first became payable; and

(b) where a croft is let after the commencement of this Act, the rent **[**F40for it or for any part of it**]** shall not be altered by the Land Court for a period of 7 years from the term at which it first became payable or for such longer period as may have been agreed upon between the crofter and the landlord.

[F41(3A) The proviso to subsection (3) above does not have the consequence that a determination which is not to take effect during any period mentioned in that proviso cannot competently be made under that subsection during that period.**]**

(4) Before determining what is a fair rent for a croft **[**F42or for any part of a croft**]** , the Land Court shall hear the parties and shall take into consideration all the circumstances of the case, of the croft and of the district, and in particular shall take into consideration any permanent or unexhausted improvements on the croft and suitable thereto which have been executed or paid for by the crofter or his predecessors in the tenancy.

Textual Amendments

F38 Words in s. 6(3) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(4)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F39 Words in s. 6(3) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(4)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F40 Words in s. 6(3) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(4)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F41 S. 6(3A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(4)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F42 Words in s. 6(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(4)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

7 Renunciation of tenancy.

(1) A crofter shall be entitled, on one year's notice in writing to the landlord, to renounce his tenancy as at any term of Whitsunday or Martinmas.

(2) If a crofter renounces his tenancy 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 by way of compensation for permanent improvements made on the croft.

8 Assignation of croft.

(1) A crofter shall not assign his croft— **[**F43unless he obtains the consent of the Commission**]**

[F44(1A) Where a crofter applies for consent to assign a croft by virtue of subsection (1), the crofter must

(a) notify the Commission as to where the proposed assignee would intend, following any such assignation, ordinarily to reside; and

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(b) provide the Commission with any other information it requests in connection with the application.

(1B) Where consent is applied for under subsection (1) in relation to an unregistered croft, the Commission—

(a) may not grant that consent 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 consent was made;

(b) need not, during that 6 month period, consider the application for consent until an application for first registration of the croft is submitted.**]**

F45(2) . . . . . .

F46(3) . . . . . .

F46(4) . . . . . .

(5) Where a crofter assigns his croft otherwise than with the consent **[**F47of the Commission**]** , such assignation and any deed purporting so to assign the tenancy shall be null and void and the Commission may declare the croft to be vacant.

(6) **[**F48In relation to an unregistered croft or a first registered croft,**]** An assignation to which the Commission have given their consent under this section shall take effect **[**F49on such date as the Commission shall specify in the consent (being a date not less than two months after that on which the consent was intimated to the crofter) unless before that date**]** the crofter or his executor or legatee and the assignee jointly give to the Commission notice in writing that they do not intend to proceed with the assignation.

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

F50(6A) (a) any consent of the Commission given under this section to an assignation expires at the end of the period of 3 months beginning with the date on which such consent was given unless an application for registration of the assignation is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the assignation takes effect on the date of registration.**]**

(7) Any reference in this section to a croft shall include a reference to a part of a croft, being a part consisting of any right in pasture or grazing land deemed by virtue of section 3(4) of this Act to form part of a croft.**]**

Textual Amendments

F43 Words in s. 8(1) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 12(a)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F44 S. 8(1A)(1B) inserted (1.10.2011 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(8)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4); S.S.I. 2012/288, art. 3(1)(c) (with Sch. 2 para. 10)

F45 S. 8(2) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(8)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F46 S. 8(2) substituted for s. 8(2)-(4) (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 12(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, **art. 2**

F47 Words in s. 8(5) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 12(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

F48 Words in s. 8(6) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(8)(c)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(n)(o))

F49 Words in s. 8(6) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 12(d)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F50 S. 8(6A) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(8)(d)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(n)(o))

[F51 9 Division of croft

(1) A crofter shall not divide his croft unless he obtains the consent of the Commission.

[F52 (1A) Where consent is applied for under subsection (1) in relation to an unregistered croft, the Commission—

(a) may not grant that consent 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 consent was made;

(b) need not, during that 6 month period, consider the application for consent until an application for first registration of the croft is submitted.]

F53 (2) . . . . . .

[F54 (3) In relation to a registered croft (other than a first registered croft)—

(a) any consent of the Commission given under this section to a division of the croft expires at the end of the period of 3 months beginning with the date on which such consent was given unless an application for registration of the division is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the division takes effect on the date of registration.

(3A) The Keeper must make up and maintain a registration schedule in accordance with section 11 of the 2010 Act in respect of a new croft created by a division under this section.]

(4) After division, the rent payable for the new crofts shall be that agreed between the landlord and the tenant.

(5) In the event that such agreement cannot be reached, the Land Court, on the application of the landlord or the tenant, shall have the power to determine the rent in accordance with subsections (3) and (4) of section 6 of this Act, the fees payable in connection with such an application being borne by the tenant.

(6) In this section—

"division" means the division of a croft into two or more new crofts ("divide" being construed accordingly);

"original croft" means the croft which is the subject of an application for division; and

"new crofts"mean each of the crofts created by the division of the original croft.]

Textual Amendments

F51 S. 9 substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 10**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

F52 S. 9(1A) inserted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(9)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 11(1))

F53 S. 9(2) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(9)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F54 S. 9(3)(3A) substituted for s. 9(3) (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(9)(c)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(p)11(2))

Succession to croft

10 Bequest of croft.

[F55(1) A crofter may, by will or other testamentary writing, **]**

[F56(a) bequeath the tenancy of the whole of the crofter's croft to any one natural person; or

(b) bequeath the tenancy of that croft to two or more natural persons provided that—

(i) each person would come into the place of the crofter in relation to the tenancy of part of the croft; and

(ii) no part of the croft would, were all the bequests accepted, be untenanted.**]**

[F57(2) A person to whom the tenancy of a croft (or of part of a croft) is bequeathed (in this section, the "legatee") must, if the legatee accepts the bequest—

(a) give notice of the bequest to the landlord; and

(b) send a copy of the notice to the Commission,

before the end of the period of 12 months beginning with the death of the crofter.**]**

[F58(2A) Notice under subsection (2) above of the bequest may be given by an executor of the deceased crofter authorised for that purpose by the legatee.**]**

[F59(3) The bequest is null and void if—

(a) in the case of a bequest such as is mentioned in subsection (1)(a), no notice is given (and no copy sent) in accordance with subsection (2) or (2A);

(b) in the case of a bequest such as is mentioned in subsection (1)(b), any legatee fails to give notice (and send a copy) in accordance with subsection (2) or (2A).

(4) Where, in the case of a bequest as is mentioned in subsection (1)(a), notice is given (and a copy sent) in accordance with subsection (2) or (2A), the legatee comes into the place of the deceased crofter (as from the date of death of that crofter) on the relevant date of registration.

(4A) Where—

(a) a crofter bequeaths the tenancy of a croft as mentioned in subsection (1)(b); and

(b) each legatee gives notice (and sends a copy) in accordance with subsection (2) or (2A),

the deceased crofter's executor must apply to the Commission for consent under section 9 to divide the croft accordingly.

(4B) Where the Commission give their consent to the division of the croft under section 9, each legatee comes into the place of the deceased crofter in relation to that legatee's new croft (as from the date of death of that crofter) on the relevant date.

(4C) The bequest is null and void if—

(a) the Commission do not give their consent to the division of the croft under section 9; or

(b) such consent is given but an application for registration of the division is not made in accordance with subsection (3)(a) of that section.**]**

[F59(4D) . . . . . .

(4E) **[**[F60]Subject to subsection (4EA),**]** A legatee who comes into the place of a deceased crofter in accordance with subsection **[**[F61](4) or, as the case may be, (4B)**]** above, in doing so—

(a) becomes liable for such debts of the deceased crofter's estate as are attributable to the tenancy; and

(b) shall, if requested to do so by the executor, pay the reasonable expenses necessarily and wholly incurred by the executor in relation to the administration and management of the tenancy during the period beginning with the date of the deceased crofter's death and ending immediately before the date when the legatee so comes into the place of the deceased crofter; and such expenses—

(i) shall, in the event of a dispute as to amount, be determined by the Land Court on the application of the executor or the legatee; and

(ii) shall not fall to be met from the deceased crofter's estate.

[[F62](4EA) Where, as a result of the Commission giving their consent to the division of the croft under section 9, two or more legatees come into the place of the deceased crofter, those legatees are jointly and severally liable for—

(a) the debts mentioned in subsection (4E)(a); and

(b) any expenses mentioned in subsection (4E)(b).**]**

(4F) Notwithstanding that a legatee comes into the place of the deceased crofter as mentioned in subsection (4E) above, the tenancy is an asset of the deceased crofter's estate, available along with the other assets of the estate to meet the other expenses of administration, and debts, of the estate; and any such legatee is liable to contribute to such expenses and debts accordingly.

(5) If the bequest becomes null and void under this section, the right to the croft shall be treated as intestate estate of the deceased crofter in accordance with Part I of the 1964 Act.

(6) Subject to the foregoing provisions of this section, any question arising with respect to the validity or effect of the bequest shall be determined by any court having jurisdiction to determine the validity and effect of the whole testamentary writings of the deceased crofter.

[[F63](7) In subsection (4), the "relevant date of registration" is—

(a) where the croft was unregistered, the date of registration in relation to the application for registration of the croft by virtue of section 4(4)(e) of the 2010 Act;

(b) where the croft was registered, the date of registration in relation to the application for registration of the notice by virtue of section 5(3)(e) of that Act.

(8) In subsection (4B)—

"legatee's new croft" means the new croft, formed by division under section 9, which corresponds to the part of the original croft bequeathed to the legatee ("division", "new croft" and "original croft" being construed in accordance with section 9(6));

"relevant date" means—

(a) where the croft was unregistered, the date the Keeper receives notification of the Commission's consent to divide the croft by virtue of section 10(7) of the 2010 Act;

(b) where the croft was registered, the date of registration in relation to the application for registration of the division by virtue of section 5(3)(d)(i) of that Act.**]**

Textual Amendments

F55 S. 10(1) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 13(2)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F56 Words in s. 10(1) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 49(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(3))

F57 S. 10(2) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 49(3)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(3))

F58 S. 10(2A)-(2D) inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 13(4)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F59 S. 10(3)-(4C) substituted for s. 10(2B)-(4D)(1.10.2011 for specified purposes, 30.11.2012 in force in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 49(4)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 4, 5(3)); S.S.I. 2012/288, art. 3(1)(b), (2), sch. 1 Pt. 2

F60 Words in s. 10(4E) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 49(5)(a)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(3))

F61 Words in s. 10(4E) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 49(5)(b)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(3))

F62 S. 10(4EA) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 49(6)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(3))

F63 S. 10(7)(8) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 49(7)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 8)

11 Intestacy.

(1) Where, owing to the failure of a crofter to bequeath the tenancy of his croft or of such a bequest to receive effect, the right to the tenancy of the croft falls to be treated as intestate estate of the deceased crofter in accordance with Part I of the 1964 Act, and the tenancy is transferred in pursuance of section 16(2) of that Act, the executor of the deceased crofter shall as soon as may be **[**F64give notice of the transfer containing**]** particulars of the transferee to the landlord, who shall accept the transferee as tenant; and **[**F65at the same time as giving the notice the executor must send a copy of the notice to the Commission**]** .

[F66(1A) A transfer such as is mentioned in subsection (1) takes effect in relation to an application for registration of—

(a) the giving of notice under that subsection by virtue of section 4 of the 2010 Act; or

(b) the transfer by virtue of section 5 of that Act,

on the date of registration.**]**

(2) If at the expiry of a period of **[**F67**]**24**]** months commencing with the relevant date the executor has not **[**F68given the landlord any notice**]** in accordance with subsection (1) above, the landlord shall forthwith notify the Commission to that effect.

(3) In this section "the relevant date" means—

F69(a) . . . . . .

(b) where the deceased crofter has F70... failed to bequeath the tenancy, **[**F71the date (no later than 2 months after the date of death of the deceased crofter) on which the Commission receive notification of the death or, where no such notification is received,**]** the date of death of the deceased crofter;

(c) where the deceased crofter has bequeathed the tenancy and the bequest has become null and void under section **[**F72**]**10**]** of this Act, the date on which the bequest became null and void as aforesaid;

F73(d) . . . . . .

[F74(4) If at the expiry of the period of **[**F75**]**24**]** months referred to in subsection (2) above, it appears to the Commission (whether from notification under that subsection or otherwise) that the executor has not **[**F76given the landlord any notice**]** in accordance with subsection (1) above, they shall give notice in such manner as they think proper, whether by advertisement or otherwise—

(a) to the landlord;

(b) if an executor is confirmed in respect of the intestate estate of the deceased crofter, to the executor; and

(c) if no executor is so confirmed, to each person of whom the Commission are aware and who the Commission consider may claim to be entitled to claim prior or legal rights out of, or to succeed to, the intestate estate,

that they propose to terminate the tenancy and declare the croft vacant and inviting the recipients of the notice to make representations as respects the proposal to the Commission before the expiry of the period of one month after the date of the notice.

(5) If, having considered representations (if any) made to them in accordance with subsection (4) above, the Commission are satisfied that—

(a) the landlord or the executor has terminated the tenancy in accordance with section 16(3)(b) of the Succession (Scotland) Act 1964;

(b) the executor is proposing to transfer the tenancy; or

(c) a person is entitled to a transfer of the tenancy in or towards the satisfaction of his claim to prior rights or his entitlement to succeed to the deceased's intestate estate,

they are not to implement their proposal; but if not so satisfied they may implement their proposal if they consider it appropriate to do so.

(6) If, by virtue of subsection (5) above, the Commission are not entitled to implement their proposal, but it appears to them subsequently (by means of representations made to them or otherwise) that the tenancy is not being transferred or is unable to be transferred, the Commission may give notice again as mentioned in subsection (4) above.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(7) If, having considered representations (if any) made to them in accordance with subsection (4) above as respects a proposal contained in a notice given by virtue of subsection (6) above, the Commission are satisfied that it is appropriate to implement their proposal they may do so.

(8) Where the Commission, in pursuance of this section, declare the croft vacant—

(a) they shall give notice to that effect—

(i) to the landlord;

(ii) if an executor is confirmed in respect of the intestate estate of the deceased crofter, to the executor; and

(iii) if no executor is so confirmed, to each person of whom the Commission is aware and who the Commission consider may claim to be entitled to claim prior or legal rights out of, or to succeed to, the intestate estate,

and any such notice to the landlord shall require him to submit to them **[**F77, before the expiry of the period of 4 months beginning with the day on which the notice is given,**]** such proposals as are mentioned in section 23(5) of this Act;

(b) any right of any person in, or in relation to, the tenancy shall be extinguished; and

(c) the landlord shall be liable to pay to the executor of the deceased crofter the value of the permanent improvements on the croft in so far as—

(i) the improvement is suitable to the croft;

(ii) the improvement was executed or paid for by the deceased crofter or by any of the predecessors of the deceased crofter in the tenancy; and

(iii) either the improvement was executed otherwise than in pursuance of a specific agreement in writing under which the deceased crofter was bound to execute the improvement or, if the improvement was executed in pursuance of such an agreement, the deceased crofter did not receive and his executor has not received, by way of reduction of rent or otherwise, fair consideration for the improvement.**]**

F78(9) . . . . . .

(10) **[**F79In subsection (8)(c) above, the expression "the value of the permanent**]** improvements on the croft" means such sum as may be agreed, or as, failing agreement, may be determined by the Land Court, to be the sum which would have been due by the landlord by way of compensation for permanent improvements if the deceased crofter had immediately before his death renounced his tenancy.

(11) Where—

(a) a croft has been declared under **[**F80this section**]** to be vacant consequent on the death after 27th August 1961 of a crofter who immediately before his death was qualified as mentioned in subsection (12) below; and

(b) the value of the improvements on the croft is determined by the Land Court under subsection (10) above,

the executor of the crofter may request the Land Court to determine what would have been the value of the improvements on the croft if the M2Crofters (Scotland) Act 1961 had not been passed; and if the value last mentioned is greater than the value determined by the Land Court under subsection (10) above, the difference between the two said values shall be payable to the executor by the Secretary of State:

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Provided that the Secretary of State shall be entitled to set off any amount due to him by the crofter at the date of his death in respect of a loan made under section 42(4) or (5) of this Act, section 22(2) or (3) of the 1955 Act or section 7(7) or 9 of the [M3]Small Landholders (Scotland) Act 1911 against any sum payable to the executor by the Secretary of State under this subsection.

(12) The reference in subsection (11) above to a crofter who immediately before his death was qualified is a reference to a crofter—

(a) whose tenancy of the croft in question began before 27th August 1961, or

(b) who held the tenancy of such croft as statutory successor to his immediate predecessor in the tenancy and each of whose predecessors (being in each case a person whose tenancy of the croft began after 27th August 1961) held such tenancy as statutory successor to his immediate predecessor.

Textual Amendments

F64 Words in s. 11(1) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(10)(a)(i)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F65 Words in s. 11(1) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(10)(a)(ii)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F66 S. 11(1A) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(10)(b)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 12)

F67 Word in s. 11(2) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(10)(c)(i)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F68 Words in s. 11(2) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(10)(c)(ii)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F69 S. 11(3)(a) repealed (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 17(3)(a)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F70 Word in s. 11(3)(b) repealed (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 17(3)(b)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F71 Words in s. 11(3)(b) inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 17(3)(b)(ii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F72 Word in s. 11(3)(c) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(10)(d)(i)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F73 S. 11(3)(d) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(10)(d)(ii)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F74 S. 11(4)-(8) substituted for s. 11(4)-(9) (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 17(4)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F75 Word in s. 11(4) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(10)(e)(i)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F76 Words in s. 11(4) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(10)(e)(ii)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F77 Words in s. 11(8)(a) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 44(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F78 S. 11(4)-(8) substituted for s. 11(4)-(9) (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 17(4)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, **art. 2**

F79 Words in s. 11(10) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 17(5)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F80 Words in s. 11(11)(a) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 17(6)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Marginal Citations
M2 1961 c. 58.
M3 1911 c. 49.

Rights of crofters and cottars to acquire their subjects

12 General provision.

(1) A crofter may, failing agreement with the landlord as to the acquisition by the crofter of croft land tenanted by him, apply to the Land Court for an order authorising him to make such acquisition.

(2) A crofter shall be entitled to a conveyance of the site of the dwelling-house on or pertaining to the croft tenanted by him, and a cottar shall be entitled to a conveyance of the site of the dwelling-house on or pertaining to his subject, and the crofter or cottar may, failing agreement with the landlord, apply to the Land Court for an order requiring the landlord to grant such a conveyance.

(3) In this Act "croft land" includes any land being part of a croft, other than—
- (a) the site of the dwelling-house on or pertaining to the croft;
- (b) any land, comprising any part of a common grazing, unless the land has been apportioned under section 52(4) of this Act and—
  - (i) is adjacent or contiguous to any other part of the croft; or
  - (ii) consists of arable machair;
- (c) any right to mines, metals or minerals or salmon fishings (not being salmon fishings in Orkney or Shetland) pertaining to the croft.

(4) In this Act, "the site of the dwelling-house" includes any building thereon and such extent of garden ground as, failing agreement with the landlord, may be determined by the Land Court by order under 15(1) of this Act to be appropriate for the reasonable enjoyment of the dwelling-house as a residence but does not include—
- (a) any right to mines, metals or minerals pertaining thereto; or
- (b) where there is more than one dwelling-house on or pertaining to a croft or, as the case may be, the subject of a cottar, the site of more than one dwelling-house; or
- (c) where the site of the dwelling-house on or pertaining to a croft has been acquired by the crofter after 10th June 1976, the site of any dwelling-house erected after such acquisition on or pertaining to the remainder of the croft.

(5) In this Act "cottar" means the occupier of a dwelling-house situated in the crofting counties with or without land who pays no rent, or the tenant from year to year of a dwelling-house situated as aforesaid who resides therein and who pays therefor an annual rent not exceeding £6, whether with or without garden ground but without arable or pasture land.

13 Authorisation by Land Court of acquisition of croft land.

(1) The Land Court, on an application made to it under section 12(1) of this Act, may make an order—
- (a) authorising the crofter to acquire such croft land as may be specified in the order, subject to such terms and conditions as, failing agreement with the

landlord, may be so specified, and requiring the landlord to convey the land to the crofter or his nominee in accordance with such terms and conditions; or

(b) refusing the application.

[[F81](1A) For the purposes of subsection (1)(a), only a member of the crofter's family may be the crofter's nominee.**]**

(2) The Land Court shall not make an order in accordance with subsection (1)(a) above where it is satisfied by the landlord as to either or both of the following matters—

(a) that, in all the circumstances pertaining to the landlord and having regard to the extent of land owned by him to which this Act applies, the making of such an order would cause a substantial degree of hardship to the landlord;

(b) that the making of such an order would be substantially detrimental to the interests of sound management of the estate of the landlord of which the croft land to which the application relates forms part.

(3) The Land Court, in making an order in accordance with subsection (1)(a) above, may provide that the authorisation to acquire is conditional on the crofter granting a lease to the landlord of the shooting rights over or the fishing rights pertaining to the croft land and shall so provide where it is satisfied that if such a lease were not granted the interests of the landlord in the shooting or fishing rights of which the rights being acquired by the crofter form part would be materially affected; and any such lease shall be at such nominal annual rent, for such period of not less than 20 years and subject to such other terms and conditions as the Land Court may specify.

(4) The Land Court, in making an order in accordance with subsection (1)(a) above, may include the condition that the crofter shall grant a standard security in favour of the landlord to secure any sum which may become payable to him or his personal representative under section 14(3) of this Act in the event of disposal of the croft land or any part thereof.

(5) Where the Land Court proposes to make an order authorising the crofter to acquire—

(a) land comprising any part of a common grazing which had been apportioned under subsection (4) of section 52 of this Act; or

(b) land held runrig which has been apportioned under subsection (8) of that section,

and it is satisfied that the apportionment has been made subject to conditions imposed by the Commission under subsection (6) or, as the case may be, subsection (8) of that section, it shall have regard to the conditions so imposed.

[[F82](6) The Land Court, in making an order under subsection (1)(a) above, may determine that any of the expenses of the conveyance of the land and other expenses necessarily incurred by the landlord in relation to that conveyance shall be borne by the crofter.

(7) Failing agreement between the landlord and the crofter as to the amount of such expenses, the auditor of the Land Court may, on the application of either of them—

(a) determine that amount; and

(b) determine that the expenses of taxing those expenses are to be borne by them in such proportion as the auditor thinks fit.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F81 S. 13(1A) inserted (1.7.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 40**, 57(2) (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with arts. 4, 5(1))

F82 S. 13(6)(7) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(5)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

14 Consideration payable in respect of acquisition of croft land.

(1) Where the Land Court makes an order in accordance with section 13(1)(a) of this Act and the crofter and the landlord have failed to reach agreement about the consideration payable in respect of the acquisition, the consideration shall, subject to subsection (3) below, be the crofting value of the croft land specified in the order as determined by the Land Court under subsection (2) below.

(2) The crofting value of the croft land, as determined by the Land Court for the purposes of subsection (1) above, shall be such amount as the Land Court may determine to be the proportion attributable to the croft land of the current rent payable for the croft of which the croft land forms part, such amount being multiplied by the factor of 15:

Provided that the Land Court, on an application made to it by the landlord at any time before it makes a final order under section 13(1) of this Act, may determine a fair rent for the croft which shall be deemed to be the current rent for the purposes of this subsection; and section 6(4) of this Act shall apply for the purposes of this proviso as if for the word "parties" there were substituted the words " landlord and the crofter ".

(3) If the person who has acquired croft land by virtue of section 13(1) of this Act ("the former crofter") or a member of the former crofter's family who has obtained the title to that land either—

(i) as the nominee of the former crofter, or

(ii) from the former crofter or his nominee,

disposes of that land or any part of it ("the relevant land") to anyone who is not a member of the former crofter's family, by any means other than by a lease for crofting or agricultural purposes, forthwith or at any time within **[**[F83]ten**]** years of the date of its acquisition by the former crofter then, subject to subsection (6) below, the person disposing of the relevant land shall pay to the landlord referred to in the said section 13(1) or to his personal representative a sum equal to one half of the difference between—

(a) the market value of the relevant land (on the date of such disposal) which, failing agreement between the parties concerned, shall be as determined by the Land Court under subsection (4) below on the application of such landlord or personal representative; and

(b) the consideration which was paid under subsection (1) above in respect of the relevant land.

(4) The market value of the relevant land as determined by the Land Court shall be the amount which the land, if sold in the open market by a willing seller, might be expected to realise assuming that on the date of the disposal—

(a) there were no improvements on the land which, if the land were let to a crofter, would be permanent improvements in respect of which the crofter would be entitled to compensation under section 30 of this Act on renunciation of the tenancy of the croft of which the land formed part;

(b) no other development had been carried out on the land (not being development carried out on the land, when it was subject to the tenancy of the former crofter or any of his predecessors in the tenancy, by a person other than that crofter or any of such predecessors); and

(c) no development of the land which consisted of the making of such an improvement as is referred to in paragraph (a) above were or would be permitted in pursuance of **[**F84the 1997 Act**]**.

(5) If the relevant land comprises only part of the land which was acquired under section 13(1) of this Act, the Land Court may, failing agreement between the parties concerned, on an application made to it by the person disposing of the relevant land or the landlord referred to in the said section 13(1) or his personal representative, determine for the purposes of subsection (3)(b) above the proportion of the amount of the consideration which was paid under subsection (1) above in respect of the relevant land.

(6) No payment shall be made under subsection (3) above in respect of the disposal of the relevant land in a case where payment is made in respect of such disposal in accordance with an agreement entered into between the landlord and the person disposing of that land.

Textual Amendments

F83 Word in s. 14(3) substituted (1.7.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 41**, 57(2) (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with arts. 4, 5(2))

F84 Words in s. 14(4) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 55(1)**.

15 Determination by Land Court of terms and conditions for conveyance of the site of the dwelling-house.

(1) The Land Court, on an application made to it under section 12(2) of this Act, may make an order requiring the landlord to convey the site of the dwelling-house to the crofter or cottar or his nominee with such boundaries and subject to such terms and conditions as, failing agreement, may be specified in the order.

(2) Where the parties have failed to reach agreement about the consideration payable in respect of the conveyance the consideration shall be—

(a) the amount as determined by the Land Court which the site, if sold in the open market by a willing seller, might be expected to realise assuming that—

(i) there were or would be no buildings on the site;

(ii) the site were available with vacant possession;

(iii) the site were not land to which this Act applies; and

(iv) no development of the site were or would be permitted in pursuance of **[**F85the 1997 Act**]**;

and in addition, in a case where the landlord has provided fixed equipment on the site—

(b) an amount equal to one half of the proportion attributable to that fixed equipment, as determined by the Land Court, of the value of the site, such value being the amount as so determined which the site, if sold as aforesaid, might be expected to realise making the assumptions referred to in sub-paragraphs (ii), (iii) and (iv) of paragraph (a) above.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(3) The Land Court in making an order under subsection (1) above may determine that any of the expenses of the conveyance of the site and other expenses necessarily incurred by the landlord in relation thereto shall be borne by the crofter or cottar:

F86 ...

(4) Failing agreement between the parties as to the amount of such expenses, the auditor of the Land Court may, on the application of either party, determine such amount; and may determine that the expenses of taxing such expenses shall be borne by the parties in such proportion as he thinks fit.

Textual Amendments

F85 Words in s. 15(2)(a)(iv) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 55(2)**.

F86 Words in s. 15(3) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 2** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

16 Provisions relating to conveyance.

(1) A landlord shall have power to execute a valid conveyance in pursuance of sections 12 to 15 of this Act, notwithstanding that he may be under any such disability as is mentioned in section 7 of the M4Lands Clauses Consolidation (Scotland) Act 1845.

(2) Where the Land Court is satisfied, on the application of the crofter or cottar or his nominee that the landlord has failed to execute a conveyance of land in favour of such person in compliance with an order under section 13(1) or 15(1) of this Act within such time as the Land Court considers reasonable, it shall make an order authorising its principal clerk to execute the conveyance and such other deeds as adjusted at his sight as may be necessary to give effect to the order; and a conveyance executed by the principal clerk under this subsection shall have the like force and effect in all respects as if it had been executed by the landlord.

(3) Where the principal clerk of the Land Court has executed a conveyance in pursuance of subsection (2) above, the Land Court may make such order as it thinks fit with regard to the payment of the consideration in respect of the conveyance and in particular providing for the distribution of the sum comprised in the consideration according to the respective F87... interests of persons making claim to such sum.

(4) Notwithstanding that the Land Court has made an order under section 13(1) or 15(1) of this Act determining the terms and conditions on which land is to be conveyed, the crofter or, as the case may be, the cottar and the landlord may arrange for the conveyance of the land on any other terms and conditions that they may agree.

(5) Where a person other than the landlord **[**F88has a completed title to**]** the subjects to be conveyed, the second references in sections 12(2) and 13(1) of this Act and the reference in the said section 15(1) and in the foregoing provisions of this section to the landlord shall be construed as references to the landlord and such other person for their respective rights.

(6) The Land Court in specifying in an order under the said section 13(1) or 15(1) the terms and conditions on which land is to be conveyed shall have regard to any existing **[**F89title conditions, within the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9),**]** relating to such land.

F90(7) . . . . . .

(8) Where the Land Court is satisfied, on the application of the landlord, that the crofter or his nominee has failed to execute a standard security in favour of the landlord in compliance with a condition imposed by the Land Court under section 13(4) of this Act within such time as the Land Court considers reasonable, it shall make an order authorising its principal clerk to execute the standard security; and a standard security executed by the principal clerk under this subsection shall have the like force and effect in all respects as if it had been executed by the crofter or his nominee.

Textual Amendments

F87 Words in s. 16(3) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 55(2)(a), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F88 Words in s. 16(5) substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 55(2)(b)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F89 Words in s. 16(6) substituted (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **sch. 14 para. 11** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)

F90 S. 16(7) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 55(2)(c), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Marginal Citations

M4 1845 c. 19.

17 Provisions supplementary to sections 13 and 15.

(1) An order of the Land Court under section 13(1)(a) or 15(1) of this Act shall have effect for a period of 2 years from the date of intimation of the order or for such other period as may at any time be agreed to in writing by the crofter or, as the case may be, the cottar and the landlord or as may be determined by the Land Court on the application of either party.

(2) Where an order has been made by the Land Court under the said section 13(1)(a) or 15(1) in relation to croft land or the site of the dwelling-house on or pertaining to a croft or under the said section 15(1) in relation to the site of the dwelling-house on or pertaining to the subject of a cottar, then, so long as the order has effect—

(a) the crofter shall not be entitled under section 30(1) of this Act to compensation for any permanent improvement made on the croft land or site; and

(b) the landlord of the croft shall not be entitled under section 30(6) of this Act to recover from the crofter compensation for any deterioration of, or damage to, any fixed equipment provided by the landlord in respect of the croft land or site; or

(c) the cottar shall not be entitled under section 36(1) of this Act to compensation for any permanent improvement made on the site,

being compensation to which the crofter and the landlord or, as the case may be, the cottar would be entitled but for this subsection.

(3) Any condition or provision to the effect that—

F91(a) . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(b) any [F92]... person with an interest in land shall be entitled to a right of pre-emption in the event of a sale thereof or of any part thereof by the proprietor for the time being,

shall not be capable of being enforced where the sale is by a landlord to a crofter or his nominee of croft land or to a crofter or a cottar or his nominee of the site of the dwelling-house on the croft or on or pertaining to the subject of the cottar in pursuance of an order under the said section 13(1) or, as the case may be, 15(1).

(4) Where the landlords are the National Trust for Scotland, the Land Court, in making an order under the said section 13(1) or 15(1), shall have regard to the purposes of the Trust.

(5) A compulsory purchase order which authorises the compulsory purchase of land, being land which was held inalienably by the National Trust for Scotland on the date of the passing of this Act and was acquired from the Trust by a crofter in pursuance of an order under section 13(1) or 15(1) of this Act, shall in so far as it so authorises be subject to special parliamentary procedure in any case where an objection has been duly made by the Trust under the [M5]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 and has not been withdrawn; and in this subsection "held inalienably" has the same meaning as in section 7(1) of the said Act of 1947.

(6) Where the site of the dwelling-house on or pertaining to a croft has been acquired after the passing of this Act by a person, who immediately before the acquisition was the tenant of the croft, that person and the wife or husband of that person may, so long as either of them continues to occupy the subjects conveyed, enjoy any right to cut and take peats for the use of those subjects which that person enjoyed immediately before the acquisition:

Provided that this subsection is without prejudice to any right to cut and take peats effeiring to the tenancy of the remainder of the croft.

(7) Any person acquiring croft land shall, unless and until the land ceases to be a croft by a direction of the Commission under section 24(3) **[**[F93]or 24B(1)**]** of this Act, be required to give notice to the Commission of the change of ownership of the land.

Textual Amendments

F91 It is provided that words in s. 17(3)(a) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 55(3), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F92 Word in s. 17(3)(b) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 55(3), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F93 Words in s. 17(7) inserted (retrospective to 1.10.2011) by Crofting (Amendment) (Scotland) Act 2013 (asp 10), ss. 3, 6, **sch. para. 1(3)**

Marginal Citations

M5 1947 c.42.

18 Adjustment of rent for remainder of croft where part conveyed to crofter.

Where a crofter acquires the site of the dwelling-house on or pertaining to his croft or any croft land forming part of his croft, then, notwithstanding that it is less than 7 years since the term at which the existing rent for the croft first became payable,

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

the Land Court may, on the application of the crofter or his landlord, determine a fair rent for the part of the croft which remains subject to the tenancy of the crofter, and accordingly subsections (3) and (4) of section 6 of this Act shall apply for the purposes of such a determination as if the provisos to subsection (3) were omitted; but thereafter the said provisos shall apply to a rent so determined.

19 Provisions relating to existing loans and heritable securities.

(1) Where—

(a) a crofter who acquires the site of the dwelling-house on or pertaining to his croft is on the date of the acquisition under any liability to the Secretary of State or Highlands and Islands Enterprise ("HIE"), or

(b) a cottar who acquires the site of the dwelling-house on or pertaining to his subject is on the date of the acquisition under any liability to the Secretary of State,

in respect of any loan, the amount outstanding in respect of such liability shall be deemed, as from the last day on which the crofter or cottar was liable to pay rent in respect of that site or on which the cottar was entitled to occupy the site as a cottar, to be a loan by the Secretary of State to the crofter or cottar or, as the case may be, by HIE to the crofter, and the provisions of Schedule 5 to this Act shall apply in relation to any such loan by the Secretary of State and, subject to any necessary modifications, to any such loan by HIE.

(2) Any question arising under subsection (1) above as to the day from which the outstanding amount is deemed to be a loan shall be determined by the Land Court.

(3) Any rights of HIE created under subsection (1) above shall be postponed to any rights, whensoever constituted, of the Secretary of State under that subsection; and such rights of the Secretary of State and HIE shall have priority over any other loan in respect of which the crofter or the cottar or his nominee as owner of the site of the dwelling-house is under any liability and shall be postponed only to such items as are referred to in [F94]... paragraph 4(b) of Schedule 9 to the [M6]Housing (Scotland) Act 1987.

(4) Any heritable security which immediately before the execution of a conveyance in pursuance of sections 12 to 18 of this Act burdened the subjects conveyed shall, as from the date of recording of the conveyance in the Register of Sasines or of registration of the interest conveyed in the Land Register of Scotland (as the case may be)—

[F95](a) . . . . . .

(b) in the case of a conveyance [F96]... where the heritable security burdened only the subjects conveyed, cease to burden those subjects;

(c) in the case of a conveyance [F96]... where the heritable security also burdened other land, burden only that other land;

and, unless the creditors in right of any such security otherwise agree, the landlord shall pay to them according to their respective rights and preferences any sum paid to him by the crofter or cottar as consideration for the subjects conveyed.

Textual Amendments

F94 Words in s. 19(3) repealed (1.4.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 92(3)**, 104(3); S.S.I. 2015/122, art. 2

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

F95 S. 19(4)(a) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 55(4)(a), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F96 Words in s. 19(4)(b)(c) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 55(4)(b), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Marginal Citations

M6 1987 c. 26.

[F97 19A Schemes for development

(1) The landlord (or owner), or any person acting with the consent of the landlord (or owner)—

(a) may by application to the Land Court seek its consent to—

(i) croft land or common grazing; or

(ii) land near to croft land or common grazing if rights and liabilities in relation to the croft land or common grazing would be affected,

being developed in accordance with a scheme appended to the application; or

(b) may intimate to that Court that every person who has rights in or over croft land or a common grazing consents to its being developed in accordance with a scheme appended to the intimation,

and the applicant shall send a copy of the application or as the case may be of the intimation (and, in either case, of the appended scheme) to the Commission.

(2) Consent under paragraph (a) of subsection (1) above is not to be given unless the Court is satisfied—

(a) that the development is for a reasonable purpose;

(b) that to carry it out would not be unfair;

(c) that the scheme provides for there to be fair recompense to each member of the crofting community in the area affected by the development for the effects of the development (including, in relation to the croft land of each such member, recompense at least equivalent to the recompense which the member might be expected to have obtained had that croft land been resumed); and

(d) that, were the development carried out—

(i) that community would be likely to benefit financially; and

(ii) such benefit would be at least commensurate with any financial benefit which the members of that community might obtain on the development proceeding other than by virtue of this section.

(3) For the purposes of subsection (2) above—

(a) the definition of "reasonable purpose" in subsection (3) of section 20 of this Act applies as it does for the purposes of subsection (1) of that section;

(b) it is unfair to carry out a development only where to do so would have significant adverse consequences for one or more of the members of the crofting community in the area affected by the development and either those consequences would be disproportionately greater than the adverse consequences for the other members of that community or there would be no adverse consequences for those other members;

(c) whether recompense is fair is to be determined having regard both to the value of the development and to its effect on the member in question; and

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(d) an effect for which there is to be fair recompense may be an effect of any kind whatsoever (and in particular need not be an effect on a croft qua croft).

(4) An application under paragraph (a) of subsection (1) above or intimation under paragraph (b) of that subsection shall—

(a) be made in such form; and

(b) be accompanied by such fee,

as the Court shall specify; and the Court may make different provision for different categories of case.

(5) Provision made under subsection (4)(a) above shall include provision as to the form and content of the appended scheme.

(6) A person making an application under paragraph (a) of subsection (1) above or giving intimation under paragraph (b) of that subsection shall forthwith give public notification of the application or intimation.

(7) Within 28 days after the public notification is given (including the day on which given) —

(a) the Commission; or

(b) any other interested party,

may submit to the Court written objections, on one or more of the grounds mentioned in subsection (8) below, as respects the application or intimation; and the Court shall hear the objectors (if any) before determining whether to give consent under this section or as the case may be before determining whether to proceed under subsection (10) below as respects the intimation.

(8) The grounds are—

(a) that the development is not for a reasonable purpose (the definition of "reasonable purpose" in subsection (3) of section 20 of this Act applying for the purposes of this paragraph as it applies for the purposes of subsection (1) of that section);

(b) that to carry out the development would be unfair to the crofting community;

(c) in the case of a submission under paragraph (a) of subsection (7) above, that the scheme does not provide for there to be fair recompense to each member of the crofting community;

(d) in the case of a submission under paragraph (b) of subsection (7) above—

(i) that to carry out the development would be unfair to the objector;

(ii) that the scheme does not provide for there to be fair recompense to the objector;

(e) that, were the development to be carried out, the crofting community would be unlikely to benefit financially;

(f) that, were the development to be carried out, any financial benefit to the crofting community would not be as mentioned in sub-paragraph (ii) of subsection (2)(d) above.

(9) The Court shall, whether or not there is a hearing under subsection (7) above, give reasons for any such determination.

(10) On—

(a) giving consent under this section; or

(b) determining to proceed under this subsection as respects an intimation,

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

the Court shall advise the Commission that it has done so and provide them with a copy of the scheme in accordance with which the development is to take place; and the Commission shall enter that copy in the Register of Crofts.

(11) When so entered the scheme shall, in so far as its terms so provide, be binding on—

(a) the landlord (or owner);

(b) any member of the crofting community in the area affected by the development;

(c) any person who, though not described in paragraph (b) above, is—

(i) a tenant of a croft; or

(ii) a holder of grazing rights,

in that area; and

(d) the successors to the persons mentioned in paragraphs (a) to (c) above.**]**

Textual Amendments

F97 S. 19A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 30(1)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

I[F98]Owner-occupied crofts: duties of certain owners

Textual Amendments

F98 Ss. 19B-19D and cross-heading inserted (22.12.2010 for the insertion of s. 19B for specified purposes, 1.10.2011 for the insertion of s. 19B otherwise and ss. 19C, 19D(1)(2)(6)(7)(8), 30.11.2012 for the insertion of s. 19D(4)(5)) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 34**, 57(2) (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4); S.S.I. 2011/334, art. 3, Sch. Pt. 1 (with art. 4, art. 5(2)(3)); S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2, (with Sch. 2 para. 1(q), 4(2))

19B Meaning of "owner-occupier crofter" etc.

(1) In this Act, a person is an "owner-occupier crofter" if all the conditions in subsections (2) to (4) are satisfied.

(2) The first condition is that the person is the owner of a croft.

(3) The second condition is that the person—

(a) was the crofter of the croft at the time of acquiring it (or is such a crofter's successor in title);

(b) acquired title to the croft as the nominee of a crofter (or is such a nominee's successor in title); or

(c) purchased the croft from the constituting landlord (or is such a purchaser's successor in title).

(4) The third condition is that the croft has not been let to any person as a crofter either by virtue of section 26J or otherwise—

(a) at any time since it was acquired as mentioned in subsection (3)(a) or (b); or

(b) at any time since it was constituted as mentioned in subsection (6)(a).

(5) In this Act, an "owner-occupied croft" means a croft owned by an owner-occupier crofter; and "owner-occupier's croft" is to be construed accordingly.

(6) For the purposes of subsection (3)(c), the "constituting landlord" is—

(a) the owner of the land at the time the land was constituted as a croft under section 3A; or

(b) such an owner's successor in title immediately before the croft is sold to the purchaser mentioned in subsection (3)(c).

19C Duties of owner-occupier crofters

(1) An owner-occupier crofter must comply with each of the duties set out in subsection (2).

(2) Those duties are that the owner-occupier crofter—

(a) must be ordinarily resident on, or within 32 kilometres of, the owner-occupier's croft;

(b) must not misuse or neglect the croft;

(c) must—

(i) cultivate the croft; or

(ii) put it to another purposeful use,

so that every part of the croft which is capable of being cultivated or put to another purposeful use either is cultivated or is put to such use;

(d) must keep the croft in a fit state for cultivation (except in so far as the use of the croft for another purposeful use is incompatible with the croft being kept in such a state).

(3) For the purposes of subsection (2)(b), an owner-occupier crofter misuses an owner-occupied croft where the owner-occupier crofter—

(a) wilfully and knowingly uses it otherwise than for the purpose of its being cultivated or put to another purposeful use;

(b) fails to use the croft for the purpose of its being cultivated; or

(c) fails to put the croft to any such purposeful use.

(4) For the purposes of subsection (2)(b), an owner-occupier crofter neglects an owner-occupied croft where the croft is not managed so as to meet the standards of good agricultural and environmental condition referred to in regulation 4 of, and the schedule to, the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004 (SSI 2004 No. 518).

(5) Without prejudice to the generality of paragraph (d) of subsection (2), in determining whether that paragraph is complied with, regard is to be had to whether appropriate measures (which may include the provision of drainage) are routinely undertaken, where requisite and practicable, to control or eradicate vermin, bracken, whins, broom, rushes and harmful weeds.

(6) But where the owner-occupier crofter, in a planned and managed manner, engages in, or refrains from, an activity for the purpose of conserving—

(a) the natural beauty of the locality of the owner-occupied croft; or

(b) the flora and fauna of that locality,

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

the owner-occupier crofter's so engaging or refraining is not, for the purposes of subsection (2)(b), to be treated as misuse or neglect as respects the croft.

(7) If, immediately before the coming into force of section 34 of the Crofting Reform (Scotland) Act 2010 (asp 14), the owner-occupied croft was being used for a subsidiary or auxiliary occupation by virtue of the right conferred by paragraph 3 of schedule 2 to this Act (as that paragraph applied immediately before the coming into force of section 7 of the Crofting Reform etc. Act 2007 (asp 7)), any continuation of use for that occupation is not, for the purposes of subsection (2)(b), to be treated as misuse or neglect as respects the croft.

(8) The Scottish Ministers may, by order, amend the meaning of neglect in subsection (4) so as to substitute different standards for those for the time being mentioned in that subsection.

19D Division of owner-occupied crofts

(1) An owner-occupier crofter may not transfer (whether or not for valuable consideration) ownership of any part of the owner-occupier's croft without first dividing the croft into the part which the owner-occupier crofter proposes to transfer and the part which the owner-occupier crofter proposes to retain.

(2) The owner-occupier crofter may so divide that owner-occupier's croft only if the owner-occupier crofter first obtains the consent of the Commission to that division.

(3) Where consent is applied for under subsection (2) in relation to an unregistered owner-occupied croft, the Commission—

(a) must not grant that consent unless an application for first registration of the owner-occupied croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for consent was made;

(b) need not, during that 6 month period, consider the application for consent until an application for first registration of the owner-occupied croft is submitted.

(4) In relation to a registered owner-occupied croft (other than an owner-occupied croft which is a first registered croft)—

(a) any consent of the Commission given by virtue of subsection (2) to a division of the owner-occupied croft expires at the end of the period of 3 months beginning with the date on which such consent was given unless an application for registration of the division is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the division takes effect on the date of registration.

(5) The Keeper must make up and maintain a registration schedule in accordance with section 11 of the 2010 Act in respect of a new croft created by a division under this section.

(6) Any transfer of ownership of any part of an owner-occupied croft which is not a new croft created by a division under this section, and any deed purporting to transfer ownership of that part, is null and void.

(7) Where the transfer of ownership of a part of an owner-occupied croft is null and void under subsection (6), the Commission may declare the original croft vacant.

(8) In this section—

"division" means the division of an owner-occupied croft into two or more new crofts; and cognate expressions are to be construed accordingly;

"original croft" means the owner-occupier's croft mentioned in subsection (1); and

"new crofts" mean each of the crofts created by the division of the original croft.**]**

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 **[**F99or 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.

[F100(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.**]**

[F101(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.

[F102(1AA) In determining whether it is satisfied as mentioned in subsection (1) above (and, 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

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(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—

F103(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 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 **[**F104(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.**]**

[F105(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 **[**F106disposing**]** of the land proposed to be resumed for—

(i) the building of dwellings;

(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;

[F107(viiia) the generation of energy;**]** or

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(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

F99 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.

F100 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)

F101 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.

F102 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)

F103 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

F104 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

F105 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

F106 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

F107 S. 20(3)(a)(viiia) 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 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.

[F108(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, 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 **[**[F109], 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 [M7]Act of Sederunt (Rules of Court, consolidation and amendment)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

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

F108 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.

F109 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

M7 S.I. 1965/321.

[F110 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).

F111 **[** (1A) In relation to land which, before being resumed as mentioned in subsection (1), was 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;

(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.

F112(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

F110 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.

F111 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)

F112 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

I[F113 Consent for absence from croft

Textual Amendments

F113 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.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(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.

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).**]**

F114 22 Absentee crofters.

. . . . . .

Textual Amendments

F114 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

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(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.

(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.

[F115(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.

[F116(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.**]**

F117(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 **[**F118, 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, **[**F119subsections (5) and (6) of section 26H**]** of this Act shall, subject to any necessary modifications, apply as **[**F120they apply**]** where a crofter fails to give up the occupation of a croft as mentioned in **[**F121subsection (5) of that section**]** .

(5) **[**F122Subject 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 **[**F123, 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 croftF124...**[**F125.

[F126(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—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(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.

(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.**]**

[[F127](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) **[**[F128]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.**]**

[F129(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 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 **[**F130**]**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 **[**F131by—

(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.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(11) The provisions of this section and sections 24 **[**F132, 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) **[**F133Subject 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

(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.

[F134(12A) Where the owner-occupier is an owner-occupier crofter, this section **[**F135has**]** 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)F136... included a reference to an owner-occupier crofter.**]**

Textual Amendments

F115 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

F116 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)

F117 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)

F118 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)

F119 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)

F120 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)

F121 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)

F122 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

F123 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)

F124 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)

F125 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

F126 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)

F127 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)

F128 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)

F129 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)

F130 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)

F131 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)

F132 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)**

F133 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)

F134 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)

F135 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)**

F136 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 **[**F137and to sections 3A and 21A of this Act**]** .

(2) Where a croft has, in consequence of the making of an order under **[**F138section 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,

[F139(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.

[F140(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.**]**

[F141(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.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

[F142(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 approved, they are proceeding in accordance with subsections (5B) and (5C) of section 23.**]**

[F143(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

F137 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.

F138 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)

F139 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.

F140 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))

F141 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.

F142 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)

F143 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))

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

[F144 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

F144 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)

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

F144 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—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(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),

(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

F144 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

F144 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 **[**F145or 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

(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 **[**F146or

(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**]**

[F147(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);

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

"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 **[**F148(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 **[**F149(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.

[F150(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) **[**F151Subject 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.

[F152(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

(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.**]**

[F153(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 **[**F154or 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.

[F155(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.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(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,

appeal [F156]..., 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

F145 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.

F146 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.

F147 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)

F148 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.

F149 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.

F150 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.

F151 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))

F152 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)

F153 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.

F154 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.

F155 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.

F156 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)

C2 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, [F157]...

(b) a crofter has broken one or more of the statutory conditions (other than the condition as to payment of rent), **[**[F158]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 **[**[F159]—

(i) terminating the tenancy;

(ii) declaring the croft to be vacant; and

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

[[F160](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 **[**[F161](whether by virtue of this section or by virtue of section 5A or **[**[F162]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.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F157 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)

F158 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)

F159 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.

F160 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)

F161 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.

F162 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)

[F163 Investigation of suspected breach of duty

Textual Amendments

F163 Ss. 26A-26K and cross-heading inserted (1.10.2011 for specified purposes, 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), **ss. 37**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(3)); S.S.I. 2012/288, art. 3(1)(b)(c)(2), sch. 1 Pt. 2 (with sch. 2 para. 5(1)(2)(3)(4))

26A Commission's duty to investigate suspected breach of duty

(1) This section applies where the Commission receive—

(a) a report from a grazings committee under section 49A(1) which includes information on a matter mentioned in subsection (2); or

(b) information in writing from a person mentioned in subsection (3) relating to such a matter.

(2) The matter referred to in subsection (1) is that—

(a) a crofter is not complying with a duty mentioned in section 5AA, 5B or 5C; or

(b) an owner-occupier crofter is not complying with a duty mentioned in section 19C(2).

(3) The person referred to in subsection (1)(b) is—

(a) a grazings committee;

(b) a grazings constable;

(c) an assessor appointed under paragraph 16 of schedule 1;

(d) a member of the crofting community within which the croft to which the matter mentioned in subsection (2) relates is situated.

(4) The Commission must investigate whether or not the duty to which the report or, as the case may be, information relates is being complied with.

(5) But the Commission need not do so where they consider the information included in the report or, as the case may be, received as mentioned in subsection (1)(b) is frivolous or vexatious.

Enforcement of duties

26B Enforcement of duties of crofters and owner-occupier crofters: general

(1) This section and section 26C apply where the Commission consider (whether following an investigation under section 26A(4) or otherwise) that—

(a) a crofter is not complying with any of the duties mentioned in section 5AA, 5B or 5C;

(b) an owner-occupier crofter is not complying with any of the duties mentioned in section 19C(2).

(2) For the purposes of subsection (1)(a)—

(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 subsection (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.

(3) For the purposes of subsection (1)(b)—

(a) where an owner-occupier crofter has let the croft by virtue of a short lease to which section 29A applies, the owner-occupier crofter is deemed to comply with the duties mentioned in that subsection (other than the duty not to misuse the croft) if the owner-occupier crofter's tenant complies with the duties;

(b) where the Commission have granted consent under section 21B, the owner-occupier crofter is deemed to comply with the duty mentioned in section 19C(2)(a).

(4) In sections 26C, 26D and 26K, the "relevant person" means the crofter (in the case of a croft) or the owner-occupier crofter (in the case of an owner-occupied croft).

26C Notice of suspected breach of duty

(1) The Commission must, unless they consider that there is a good reason not to, give the relevant person a written notice informing the person that the Commission consider that the duty is not being complied with.

(2) The notice must—

(a) explain the reasons why the Commission consider that the duty is not being complied with;

(b) indicate that the relevant person may make representations to the Commission before the expiry of the period of 28 days beginning with the day on which notice is given to the person (the "representation period"); and

(c) where given to a crofter, be copied to the landlord of the croft.

(3) The Commission must have regard to any representations received within the representation period.

(4) The Commission may also have regard to any representations received after the end of the representation period.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(5) The Commission must, before the expiry of the period of 14 days beginning with the day on which the representation period ends, decide whether the duty is being complied with.

26D Undertakings: general

(1) If the Commission decide that a duty is not being complied with, they must, before taking any action under section 26H or 26J, give the relevant person a written notice giving the person an opportunity to give an undertaking to comply with the duty before the expiry of such period as the Commission consider reasonable.

(2) The notice must—

(a) explain that the relevant person must give the undertaking before the expiry of the period of 28 days beginning with the day on which the notice is given;

(b) explain that the giving of the undertaking by the person constitutes acceptance by the person that the duty is not being complied with;

(c) set out what the person must do to comply with the undertaking;

(d) explain that if the person complies with the undertaking, no further action will be taken against the person in respect of the failure to comply with that duty; and

(e) where given to a crofter, be copied to the landlord of the croft.

(3) The Commission may accept an undertaking subject to such conditions as they consider appropriate.

(4) The Commission must decide whether to accept an undertaking before the expiry of the period of 28 days beginning with the day on which the relevant person offers to give the undertaking.

26E Circumstances where the Commission may not take action under section 26H or 26J

The Commission may not take any action under section 26H or 26J if—

(a) the period for giving an undertaking under section 26D has not expired;

(b) an undertaking has been given under section 26D and the period for complying with the undertaking has not expired;

(c) an undertaking given under section 26D has been complied with;

(d) in the case of a crofter—

(i) the Commission have consented to the sublet of the croft under section 27;

(ii) an application for consent to sublet has been made under section 27 and has not been determined;

(e) in the case of an owner-occupier crofter—

(i) the Commission have consented to the let of the owner-occupier's croft on a short lease (within the meaning of section 29A(4));

(ii) an application for consent to a lease has been made under section 29A and has not been determined;

(f) in the case of failure to comply with a duty mentioned in section 5AA or 19C(2)(a)—

(i) the Commission have consented to the absence under section 21B;

(ii) an application for consent for absence, to extend a period of absence or to vary a condition imposed in respect of such absence has been made under section 21B, 21C or, as the case may be, 21D and has not been determined.

26F Commission duty to take action under section 26H or 26J

(1) If—

(a) the Commission decide that a duty is not being complied with; and

(b) none of the circumstances mentioned in section 26E apply,

the Commission must take one of the actions mentioned in subsection (2) unless they consider that there is a good reason not to.

(2) Those actions are—

(a) in the case of a crofter, the tenancy termination procedure under section 26H;

(b) in the case of an owner-occupier crofter, the letting procedure under section 26J.

26G Division of croft before taking action

(1) Before taking action under section 26H or 26J, the Commission may, if they are satisfied that it is fair to do so, divide a croft or, as the case may be, an owner-occupied croft.

(2) In satisfying themselves as mentioned in subsection (1), the Commission must have regard to—

(a) the use and occupation of the croft or owner-occupied croft;

(b) in the case of a croft, the interests of the estate in which the croft is located;

(c) the sustainable development of the crofting community in the locality of the croft or owner-occupied croft;

(d) such other matters as the Commission consider appropriate.

(3) Any division of a croft or an owner-occupied croft under subsection (1) takes effect—

(a) as respects an application for first registration of the croft, or owner-occupied croft, submitted by virtue of section 4 of the 2010 Act, on the date of registration;

(b) as respects an application for registration of the division of the croft, or owner-occupied croft, submitted by virtue of section 5 of that Act, on the date of registration.

(4) The Keeper must make up and maintain a registration schedule in accordance with section 11 of the 2010 Act in respect of a new croft created by a division under this section.

(5) Where a croft or owner-occupied croft has been divided under subsection (1), the Commission may take action under section 26H or 26J in respect of any or all of the new crofts created by the division.

(6) Where a croft, other than an owner-occupied croft, is divided under subsection (1), the Commission must give written notice of the division to the landlord of the croft, specifying the date on which the division took effect.

(7) In this section—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

"division" means the division of a croft or an owner-occupied croft into two or more new crofts; and "divide" is to be construed accordingly; and

"new crofts" mean each of the crofts created by a division under subsection (1).

26H Crofters: tenancy termination procedure

(1) If the Commission are satisfied that it is in the general interest of the crofting community in the locality of the croft, the Commission must make an order terminating the tenancy of the crofter unless they consider that there is a good reason not to.

(2) An order under subsection (1) must be notified to—

(a) the crofter; and

(b) the landlord of the croft.

(3) An order under subsection (1) must specify the date on which it takes effect.

(4) An order under subsection (1) may not take effect before the expiry of the period of 28 days beginning with the later notification under subsection (2).

(5) If the crofter fails to give up occupation of the croft on or before the day on which the order takes effect, the Commission may apply to the sheriff for warrant for ejection of the crofter.

(6) The sheriff must grant the warrant for ejection, except on cause shown by the crofter.

(7) The Commission may recover from the crofter the expenses incurred by them—

(a) in making any application under subsection (5);

(b) in executing any warrant granted under subsection (6).

(8) A crofter whose tenancy is terminated by an order under subsection (1) has the same rights and liabilities relating to compensation as if the crofter had renounced the tenancy at the date on which the order under subsection (1) takes effect.

26J Owner-occupier crofters: letting procedure

(1) The Commission must, unless they consider that there is a good reason not to, direct the owner-occupier crofter to submit to them, before the expiry of the period of 28 days beginning with the day on which the direction is given, a proposal for letting the owner-occupier's croft.

(2) No more than three proposals for letting the croft may be submitted in response to a direction given under subsection (1).

(3) Where a proposal for letting the croft is submitted to the Commission in response to a direction given under subsection (1), they must approve or reject the proposal within the period of 8 weeks beginning with the day on which the direction was given.

(4) The Commission must (as soon as is reasonably practicable) proceed in accordance with subsections (7) and (8) if—

(a) no proposals for letting the croft are submitted by the owner-occupier crofter before the expiry of the period mentioned in subsection (1);

(b) the owner-occupier crofter has submitted one or two proposals for letting the croft within the period mentioned in subsection (1) and—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(i) all such proposals are rejected by the Commission; and

(ii) the period mentioned in subsection (1) has expired; or

(c) the owner-occupier crofter has submitted three proposals for letting the croft (within the period mentioned in subsection (1)) and the Commission have rejected all three.

(5) Any letting of an unregistered owner-occupied croft in accordance with proposals submitted under subsection (1) is void unless an application for first registration of the owner-occupied croft is submitted before the expiry of the period of 3 months beginning with the date of the letting.

(6) In relation to a registered owner-occupied croft—

(a) any approval under subsection (3) of a proposal for letting the owner-occupied croft under subsection (1) expires at the end of the period of 3 months beginning with the date on which the approval was given unless an application for registration of the letting of the owner-occupied croft is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the letting of the owner-occupied croft takes effect on the date of registration.

(7) The Commission must, by public notification, invite applications for letting the owner-occupied croft before the expiry of the period specified in the notification.

(8) When the period of notification has ended, the Commission must decide—

(a) to which of the applicants (if any) to let the owner-occupied croft; and

(b) after consulting the owner-occupier crofter, on what conditions to let the croft.

(9) Any letting of an unregistered owner-occupied croft pursuant to a decision under subsection (8) is void unless an application for first registration of the owner-occupied croft is submitted before the expiry of the period of 3 months beginning with the date of the letting.

(10) In relation to a registered owner-occupied croft—

(a) any decision under subsection (8) to let the owner-occupied croft to an applicant is, at the end of the period of 3 months beginning with the date on which the decision was made, to be treated as if it had not been made unless an application for registration 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 owner-occupied croft takes effect on the date of registration.

(11) Where an owner-occupied croft has been let on conditions set by the Commission under subsection (8)(b), the owner-occupier crofter may, before the expiry of the period of 28 days beginning with the day of the letting, apply to the Land Court for a variation of the conditions so set.

(12) If the Land Court, on an application under subsection (11), varies the conditions of let, any variation takes effect as from the date of the letting.

26K Appeals

(1) A relevant person may appeal to the Land Court against a decision of the Commission under section 26C(5) that a duty is not being complied with.

(2) A relevant person may appeal to the Land Court against a decision of the Commission under section 26D—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(a) not to accept an undertaking;
(b) to impose conditions on such an undertaking.

(3) A relevant person may appeal to the Land Court against—
(a) the making by the Commission of an order under section 26H; or
(b) the giving by the Commission of a direction under section 26J.

(4) An appeal under subsection (3) may include an appeal against a division under section 26G of (as the case may be)—
(a) the croft; or
(b) the owner-occupied croft.

(5) An appeal under subsection (2) or (3) must be made before the expiry of the period of 42 days beginning with the day on which the decision, order or direction is made.

(6) An appeal under subsection (2) or (3) may be made only on one or more of the following grounds—
(a) that the Commission erred in law;
(b) that the Commission made a finding as to a fact material to the decision, order or direction but did not have sufficient evidence on which to base that finding;
(c) that the Commission acted contrary to natural justice;
(d) that the Commission took into account certain irrelevant or immaterial considerations;
(e) that the Commission failed to take into account certain relevant or material considerations;
(f) that the Commission exercised their discretion in an unreasonable manner.

(7) In an appeal under this section, the Land Court may—
(a) confirm or revoke the decision, order or direction;
(b) direct the Commission to make a different decision, order or direction;
(c) remit the case to the Commission without so directing them.

(8) The Commission must give effect to the decision of the Land Court on an appeal under this section.

(9) The Land Court may, if it considers it appropriate in consequence of any decision on an appeal under subsection (3), order the Keeper to rectify the Crofting Register.**]**

Subletting of crofts

27 Provisions as to right to sublet.

(1) Notwithstanding any enactment or rule of law, a crofter shall be entitled to sublet his croft **[**F164, for a period not exceeding 10 years,**]** without the consent of the landlord of the croft.

(2) A crofter shall not sublet his croft otherwise than with the consent in writing of the Commission and in accordance with such conditions (which shall not include conditions relating to rent) as the Commission in giving their consent may impose; and any sublease of his croft granted by a crofter otherwise than as aforesaid shall be null and void:

Provided that nothing in this subsection shall be construed as debarring a crofter from subletting any dwelling-house or other building forming part of his croft to holiday visitors.

F165(3) . . . . . .

F166(4) . . . . . .

(5) The Commission may, in giving their consent to a proposed sublease of a croft, impose such conditions (other than any relating to rent) as they may think fit.

Textual Amendments

F164 Words in s. 27(1) inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 11(1)(a)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F165 S. 27(3) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(18)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F166 S. 27(3) substituted for s. 27(3)(4) (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 11(1)(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, **art. 2**

PROSPECTIVE

F167 28 Special provisions regarding subletting of crofts not adequately used.

. . . . . .

Textual Amendments

F167 S. 28 repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 11(2)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

29 Miscellaneous provisions regarding subleases of crofts.

(1) Subject to subsection (2) below, the subtenant under a sublease of a croft shall not be held to be

[F168(a) a crofter; or

(b) the tenant under a lease constituting a 1991 Act tenancy within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11) or under a lease constituting a short limited duration tenancy**[**F169, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy**]** (within the meaning of that Act).**]**

(2) Where under a sublease of any croft a right in any common grazing is let to the subtenant, and the sublease is one which-

(a) has been intimated to the Commission under section 11(1)(a) or (b) of the M8Crofters (Scotland) Act 1961; or

(b) has been granted by the crofter with the consent of the Commission and in accordance with any conditions imposed by them, as mentioned in section 27(2) of this Act, or

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(c) has been granted by the crofter in accordance with proposals submitted to the Commission under section 28(4) of this Act and approved by them, or

(d) has been granted under section 28(7) of this Act by the Commission,

the subtenant shall come in place of the crofter in relation to any matter which concerns such right, and any grazings regulations applicable to such common grazing shall apply to the subtenant accordingly.

[F170(2A) The conditions of let must specify that the crofter shall give the subtenant not less than 6 months written notice of any intention to assign, exchange or divide the croft and that the sublease shall come to an end on such assignation, exchange or division.**]**

(3) Where the tenancy of a croft is terminated, any sublease of that croft subsisting immediately before the date of such termination shall come to an end on that date:

Provided that where a sublease comes to an end by virtue of the foregoing provisions of this subsection the Commission may, on an application in that behalf made to them by the subtenant within one month or such longer period not exceeding 3 months as the Commission may in all the circumstances think reasonable from the date on which the sublease came to an end as aforesaid, make an order permitting the subtenant to remain in occupation of the croft for such period, not exceeding one year from the said date, and subject to such conditions, as may be specified in the order; and no proceedings for the removal of the subtenant from the croft shall be taken by the owner of the croft before the expiry of the said period of one month or the said longer period or, if an application is made under this subsection to the Commission by the subtenant within that period, before the date of the determination of the Commission on such application.

[F171(3A) Where the tenancy of a croft is terminated by virtue of the death of the crofter, the Commission shall, as part of their consideration in determining whether to make an order under the proviso to subsection (3) above and if so what period of occupation to permit—

(a) consult the deceased crofter's executor; and

(b) have regard in particular to such hardship as might, according to what they decide, be occasioned—

(i) the former subtenant; or

(ii) an assignee or transferee of the interest of tenant,**]**

(4) In this section and in sections 27 and 28 of this Act any reference to a croft shall include a reference to a part of a croft.

Textual Amendments

F168 S. 29(1)(a)(b) substituted for words (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), s. 95(3)(4), **sch. para. 49(a)** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with sch.)

F169 Words in s. 29(1)(b) substituted (30.11.2017) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 4(3)** (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 9)

F170 S. 29(2A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 11(3)(a)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F171 S. 29(3A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 11(3)(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Marginal Citations

M8 1961 c. 58.

[F172 Letting of owner-occupied crofts

Textual Amendments

F172 Ss. 29A, 29B and cross-heading inserted (22.12.2010 for specified purposes, 1.10.2011 for specified purposes, 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), **ss. 39**, 57(2) (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with arts. 45(3)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(3)); S.S.I. 2012/288, art. 3(1)(b)(c)(2), sch. 1 Pt. 2 (with sch. 2 paras. 1(v)6)

29A Letting of owner-occupied crofts

(1) An owner-occupier crofter may not let the owner-occupier's croft (or any part of it) without the consent of the Commission.

(2) Subject to subsection (7), where consent is applied for under subsection (1) in relation to an unregistered owner-occupied croft (or any part of such an owner-occupied croft), the Commission—

(a) may not grant that consent 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 consent was made;

(b) need not, during that 6 month period, consider the application for consent until an application for first registration of the croft is submitted.

(3) Subject to subsection (8), in relation to a registered owner-occupied croft (other than an owner-occupied croft which is a first registered croft), or any part of such a croft—

(a) any consent under subsection (1) expires at the end of the period of 3 months beginning with the date on which such consent 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.

(4) The Commission may, in giving their consent to a proposed lease of an owner-occupied croft for a period not exceeding 10 years (a "short lease"), impose such conditions (other than any relating to rent) as they consider appropriate.

(5) A lease is void if it is granted—

(a) without the Commission's consent;

(b) in the case of a short lease, otherwise than in accordance with such conditions as the Commission may impose.

(6) The Commission may terminate a short lease granted under this section if—

(a) a condition imposed under subsection (4) is breached; or

(b) the tenant fails to comply with a condition of let (other than any relating to rent).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(7) Subsection (2) does not apply to an application for consent to a proposed lease which is a short lease.

(8) Subsection (3) does not apply to—

(a) consent under subsection (1) to a short lease; or

(b) the letting of the croft (or part of the croft) on a short lease.

(9) Where, by virtue of a lease granted under this section, a right in a common grazing is let to the tenant under the lease—

(a) that tenant comes into the place of the owner-occupier crofter in relation to any matter which concerns the right; and

(b) any grazings regulations applicable to the grazing apply to the tenant accordingly.

(10) Subsections (1) to (6) do not apply to the letting of any dwelling-house or other building forming part of the owner-occupied croft to holiday visitors.

29B Status of tenant under a short lease

The tenant under a short lease of an owner-occupied croft is not to be treated as—

(a) a crofter; or

(b) the tenant under a lease constituting—

(i) a 1991 Act tenancy within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11);

(ii) a short limited duration tenancy within the meaning of that Act; [F173]...

(iii) a limited duration tenancy within the meaning of that Act.**]**

[[F174](iv) a modern limited duration tenancy within the meaning of that Act, or

(v) a repairing tenancy within the meaning of that Act.**]**

Textual Amendments

F173 Word in s. 29B(b) repealed (30.11.2017) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 4(4)(a)** (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 9)

F174 S. 29B(b)(iv)(v) inserted (30.11.2017) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 4(4)(b)** (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 9)

Compensation for improvements and for deterioration or damage

30 Compensation to crofter for improvements.

(1) Where—

(i) a crofter renounces his tenancy or is removed from his croft, or

(ii) the tenancy of a croft, being a tenancy the interest of the tenant under which is comprised in the estate of a deceased crofter, is terminated in pursuance of section 16(3) of the 1964 Act,

the crofter or, as the case may be, the executor of the deceased crofter shall, subject to the provisions of this Act, be entitled to compensation for any permanent improvement made on the croft if—

(a) the improvement is suitable to the croft; and

(b) the improvement was executed or paid for by the crofter or, as the case may be, the deceased crofter, or any of the predecessors of the crofter or of the deceased crofter in the tenancy; and

(c) either the improvement was executed otherwise than in pursuance of a specific agreement in writing under which the crofter or, as the case may be, the deceased crofter was bound to execute the improvement or, if the improvement was executed in pursuance of such an agreement, the crofter has not received or, as the case may be, the deceased crofter did not receive and his executor has not received, by way of reduction of rent or otherwise, fair consideration for the improvement.

(2) Where—

(a) a person on becoming the tenant of a croft has with the consent of the landlord paid to the outgoing tenant any compensation due to him in respect of any permanent improvement [F175]...; or

(b) on a person becoming the tenant of a croft the Secretary of State on his behalf has paid to the landlord a sum representing the value to such person of an existing improvement on the croft;

such person shall for the purposes of subsection (1) above be deemed to have executed or paid for the improvement.

For the purposes of paragraph (a) above, a landlord who has not paid the compensation due [F176]... to the outgoing tenant [F176]... to the Secretary of State by virtue of subsection (3) of that section shall be deemed to be a loan by the Secretary of State to him shall be deemed to have given his consent.

(3) Subsection (1) above shall not apply to any buildings erected by a crofter in contravention of any interdict or other judicial order.

(4) The amount of the compensation payable under subsection (1) above shall, failing agreement, be fixed by the Land Court.

(5) Nothing in this Act shall affect the provisions of the [M9]Agricultural Holdings (Scotland) Act 1991 **[**[F177]or of the Agricultural Holdings (Scotland) Act 2003 (asp 11)**]** with respect to the payment to outgoing tenants of compensation for improvements:

Provided that—

(a) where any improvements are valued under **[**[F178]either of those Acts**]** with a view to the payment of compensation to a crofter or to the executor of a deceased crofter, the valuation shall, unless the landlord and the crofter or executor otherwise agree in writing, be made by the Land Court; and

(b) compensation shall not be payable under **[**[F178]either of those Acts**]** for an improvement for which compensation is payable under this Act.

(6) Notwithstanding anything in this section—

(a) a crofter who immediately before 1st October 1955 was a statutory small tenant, or

(b) the statutory successor of such a crofter, or

(c) the executor of such a crofter or of such a statutory successor,

shall not be entitled, in respect of any permanent improvement made or begun before 1st October 1955, to any compensation to which he would not have been entitled if his tenancy had expired immediately before 1st October 1955.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

[F179(6A) Subject to subsection (6B) below, in this Act "improvement" does not include anything erected or carried out wholly for—

(a) putting a croft to such other purposeful use as is mentioned in **[**F180section 5C(2)(a)(ii) of**]** this Act; or

(b) using part of a common grazing for a purpose other than is mentioned in paragraph (a) or (b) of section 50B(1) of this Act.

(6B) Subsection (6A) above does not apply if—

(a) in any written consent given under section **[**F181 5C(4)(a)**]** of this Act as respects the use in question, the landlord agrees that the subsection should not apply; or

(b) before the Commission approve under section 50B(11) of this Act implementation of the proposal for the use in question, the owner gives written intimation to the proposer that, as respects that use, he so agrees.**]**

(7) In this Act "permanent improvement" means any of the improvements specified in Schedule 3 to this Act:

Provided that no building or other structure erected on a croft shall be held to be a permanent improvement on the croft unless it is a fixture on the land.

Textual Amendments

F175 Words in s. 30(2)(a) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 2** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F176 Words in s. 30(2) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 2** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F177 Words in s. 30(5) inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), s. 95(3)(4), **sch. para. 49(b)(i)** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with sch.)

F178 Words in s. 30(5) substituted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), s. 95(3)(4), **sch. para. 49(b)(ii)** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with sch.)

F179 S. 30(6A)(6B) inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 25**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F180 Words in s. 30(6A)(a) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(19)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F181 Word in s. 30(6B) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(19)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

Marginal Citations

M9 1991 c. 55.

31 Permanent improvements made on crofts for purposes of subsidiary or auxiliary occupations.

(1) A crofter may erect any buildings or other structures, or execute any works, on his croft which—

(a) are reasonably required to enable him to make use of the croft for any subsidiary or auxiliary occupation in accordance with **[**F182section 5C(2)(a)(ii) of**]** this Act, and

(b) will not interfere substantially with the use of the croft as an agricultural subject.

(2) Any buildings or other structures erected, or any works executed, under subsection (1) above on any croft shall, if in the case of any such buildings or structures they are fixtures on the land, be permanent improvements on the croft and shall be deemed to be suitable to the croft for the purposes of section 30(1)(a) of this Act.

(3) The provisions of subsection (2) above shall apply in relation to buildings or other structures erected, or works executed, on any croft before 27th August 1961 if such buildings, structures or works could have been erected or executed under subsection (1) above if the said subsection (1) had then been in force:

Provided that nothing in this subsection shall authorise the payment of compensation under section 14 of the 1955 Act in respect of any such buildings, structures or works as are mentioned in this subsection where the crofter has renounced his tenancy or has been removed from his croft before 27th August 1961.

Textual Amendments

F182 Words in s. 31(1)(a) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(20)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

32 Assessment of compensation for improvements.

(1) The amount of any compensation payable under section 30(1) of this Act to a crofter who renounces his tenancy or is removed from his croft, or to the executor of a deceased crofter, in respect of a permanent improvement on the croft shall be a sum equal to—

(a) the value of that improvement as at the date when—

(i) the crofter renounced his tenancy, or

(ii) the crofter was removed from the croft, or

(iii) the tenancy of the croft was terminated in pursuance of section 16(3) of the 1964 Act,

as the case may be, calculated in accordance with subsection (2) below, less

(b) the value of any assistance or consideration which may be proved to have been given by the landlord of the croft or any of his predecessors in title in respect of the improvement.

(2) For the purposes of subsection (1) above, the value of an improvement on any croft shall be taken to be the amount, if any, which, having regard to the location of the croft and any other circumstances which might affect the demand for the tenancy thereof, the landlord might reasonably be expected to receive in respect of the improvement from a person who might reasonably be expected to obtain the tenancy of the croft if the croft were offered on the open market for letting with entry on the date referred to in subsection (1)(a) above.

(3) Where—

(a) compensation falls to be assessed under subsections (1) and (2) above in respect of any permanent improvement on a croft; and

(b) the amount of such compensation is fixed or assessed by the Land Court under section 30(4) or 39(3)(a) of this Act,

then, if the crofter, or (as the case may be) the executor of the deceased crofter, is qualified as mentioned in subsection (4) below, he may request the Land Court

to determine the amount which would have been payable by way of compensation in respect of that improvement if the [M10]Crofters (Scotland) Act 1961 had not been passed; and if the amount last mentioned is greater than the amount fixed or assessed by the Land Court as aforesaid, the difference between the two said amounts shall be payable to the crofter or executor by the Secretary of State:

Provided that—

(a) the Secretary of State shall be entitled to set off any amount due to him by the crofter or, as the case may be, the executor of the deceased crofter in respect of a loan made under section 22(2) or (3) of the 1955 Act, section 42(4) or (5) of this Act or section 7(7) or section 9 of the [M11]Small Landholders (Scotland) Act 1911 against any sum payable to the crofter or executor by the Secretary of State under this subsection; and

(b) this subsection shall not apply where compensation in respect of the improvement in question has on a previous occasion fallen to be assessed under subsections (1) and (2) above.

(4) The reference in subsection (3) above to a crofter who is qualified is a reference to a crofter—

(a) whose tenancy of the croft in question began before 27th August 1961, or

(b) who holds the tenancy of such croft as statutory successor to his immediate predecessor in the tenancy and each of whose predecessors (being in each case a person whose tenancy of the croft began on or after 27th August 1961) held such tenancy as statutory successor to his immediate predecessor,

and for the purposes of the said subsection the executor of a deceased crofter shall be deemed to be qualified if the deceased crofter would have been qualified as mentioned in the foregoing provisions of this subsection.

Marginal Citations

M10 1961 c. 58.

M11 1911 c. 49.

33 Record of improvements.

(1) The Land Court shall, on the application of the landlord or the crofter, make a record of the condition of the cultivation of a croft and of the buildings and other permanent improvements thereon, and by whom the permanent improvements have been executed or paid for.

(2) Any application under this section shall be intimated by the Land Court to the other party concerned and each party shall be given an opportunity of being heard on any matter affecting the record of the croft.

34 Compensation to landlord for deterioration or damage.

(1) Where—

(a) a crofter renounces his tenancy or is removed from his croft, or

(b) the tenancy of a croft, being a tenancy the interest of the tenant under which is comprised in the estate of a deceased crofter, is terminated in pursuance of section 16(3) of the 1964 Act,

the landlord shall be entitled to recover from the crofter or, as the case may be, from the executor of the deceased crofter compensation for any deterioration of, or damage to, any fixed equipment provided by the landlord committed or permitted by the crofter or, as the case may be, by the deceased crofter or his executor.

(2) The amount of the compensation payable under subsection (1) above shall be the cost, as at the date of the crofter's quitting the croft or, as the case may be, of the termination of the tenancy, of making good the deterioration or damage; and the landlord shall be entitled to set off the amount so payable against any compensation payable by him in respect of permanent improvements.

(3) The amount of the compensation payable under subsection (1) above shall, failing agreement, be fixed by the Land Court.

35 Assessment of compensation for improvements or deterioration on joint application to Land Court.

Where—

(a) a crofter has given notice of renunciation of his tenancy, 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,

the Land Court may, on the joint application of the crofter or, as the case may be, the executor of the deceased crofter and the landlord or, where the crofter's rights to compensation for permanent improvements have been transferred in whole or in part under section 43 of this Act to the Secretary of State, on the joint application of the Secretary of State and the landlord, assess prior to the renunciation or, as the case may be, the termination the amounts which will on renunciation or termination become due under sections 30 and 34 of this Act by the landlord by way of compensation for permanent improvements and by the crofter or executor by way of compensation for deterioration or damage; and the amounts so assessed shall, on renunciation or, as the case may be, termination, become due accordingly.

36 Compensation to cottar for improvements.

(1) Where a cottar if not paying rent is removed from his dwelling and any land or buildings occupied by him in connection therewith, or if paying rent renounces his tenancy or is removed, he shall be entitled to compensation for any permanent improvement if—

(a) the improvement is suitable to the subject; and

(b) the improvement was executed or paid for by the cottar or the cottar's wife or husband or any predecessor of the cottar or of the cottar's wife or husband; and

(c) either the improvement was executed otherwise than in pursuance of a specific agreement in writing under which the cottar was bound to execute the improvement, or, if the improvement was executed in pursuance of such an agreement, the cottar has not received, by way of reduction of rent or otherwise, fair consideration for the improvement.

(2) The amount of the compensation payable under subsection (1) above shall, failing agreement, be fixed by the Land Court, and sections 30(3) and 32(1) and (2) of this Act shall apply in relation to such cottar as they apply in relation to crofters.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(3) Where the amount of the compensation payable under subsection (1) above is fixed by the Land Court under subsection (2) above, then, if the cottar is qualified as mentioned in subsection (4) below, he may request the Land Court to determine the amount which would have been payable by way of compensation in respect of the permanent improvement concerned if the [M12]Crofters (Scotland) Act 1961 had not been passed; and if the amount last mentioned is greater than the amount fixed by the Land Court as aforesaid, the difference between the two said amounts shall be payable to the cottar by the Secretary of State:

Provided that—

(a) the Secretary of State shall be entitled to set off any amount due to him by the cottar in respect of a loan made under section 22(2) of the 1955 Act, section 42(4) of this Act or section 9 of the [M13]Small Landholders (Scotland) Act 1911 against any sum payable to the cottar by the Secretary of State under this subsection; and

(b) this subsection shall not apply where compensation in respect of the improvement in question has on a previous occasion fallen to be assessed under section 32(1) and (2) of this Act as applied by subsection (2) above.

(4) The reference in subsection (3) above to a cottar who is qualified is a reference to a cottar—

(a) whose occupation of the subject in question began before 27th August 1961; or

(b) who occupies such subject as heir-at-law, legatee or assignee of his immediate predecessor as occupier of the subject, and each of whose predecessors (being in each case a person whose occupation of the subject began on or after 27th August 1961) occupied the subject as heir-at-law, legatee or assignee of his immediate predecessor.

(5) In this section "predecessor", in relation to a cottar or to the wife or husband of a cottar, means any person to whom the cottar or the wife or husband of the cottar might, failing nearer heirs, have succeeded in case of intestacy.

Marginal Citations

M12 1961 c. 58.

M13 1911 c. 49.

Compulsory acquisition of croft

37 Crofter's right to share in value of land taken possession of compulsorily.

(1) Where in pursuance of any enactment providing for the acquisition and taking of possession of land compulsorily by any person (in this section referred to as an "acquiring authority"), an acquiring authority acquire and take possession of a croft or a part thereof from a crofter, the crofter shall be entitled to receive from the acquiring authority, in addition to any compensation payable to him under section 114 of the [M14]Lands Clauses Consolidation (Scotland) Act 1845, a share in the value of the land of which possession has been taken, the amount whereof shall be one half of the difference between, subject to subsection (4) below, the market value of the land (on the date on which such possession is taken) as determined by the Land Court in

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

accordance with subsection (2) below (less any compensation payable as aforesaid) and the crofting value thereof.

(2) 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 assuming that the land were not land to which this Act applies.

(3) Section 21(4) of this Act shall apply to land which has been taken possession of compulsorily by an acquiring authority as it applies to land of which the Land Court has authorised resumption.

(4) 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 referred to in subsection (1) above before the land has been acquired by and taken possession of by the acquiring authority, there shall be deducted from the market value such amount thereof as, in the opinion of the Land Court, is attributable to that development.

(5) In this section "crofting value", in relation to land which has been taken possession of compulsorily, has the same meaning as it has in section 14 of this Act in relation to croft land.

Marginal Citations
M14 1845 c. 19.

Reorganisation schemes

38 Reorganisation schemes.

(1) Where in relation to any township the Commission—

(a) either of their own accord or on representations made to them by a crofter who is the tenant of a croft situated in the said township or by the landlord of such a croft or by a grazings committee appointed under section 47 of this Act in respect of common grazings shared in by any such crofter, and

(b) after such consultation as is reasonably practicable with the tenants and the landlords of crofts situated in the township and with any grazings committee appointed as aforesaid, and

(c) after making such inquiries as they think fit,

are satisfied that the township ought to be reorganised in order to secure the preservation or the better development thereof, they may prepare a **[**[F183]provisional**]** draft of a scheme (in this Act referred to as a "reorganisation scheme") for the reorganisation of the township.

[[F184](1A) Before proceeding to prepare a provisional draft reorganisation scheme the Commission must give intimation in writing to each of the persons mentioned in subsection (10) below that the Commission are satisfied as is mentioned in subsection (1) above and that they intend so to proceed.**]**

(2) A reorganisation scheme shall provide for the re-allocation of the land in the township in such manner as is, in the opinion of the Commission, most conducive to the proper and efficient use of that land and to the general benefit of the township, so, however,

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

that under the scheme every crofter who is the tenant of a croft situated in the township and who so wishes shall be granted the tenancy of a croft and that such croft shall—

(a) if the crofter so wishes, include any dwelling-house which formed part of the croft of which he was tenant immediately before the date on which the scheme was put into effect, and

(b) if he so wishes, be of a value not less than that of the croft of which he was tenant as aforesaid.

[F185(3) A reorganisation scheme may, if the Commission—

(a) obtain the prior written consent of the Scottish Ministers, make provision with respect to the inclusion of any land in the vicinity of the township, being land to which this Act does not apply, which in the opinion of the Commission ought to be used for the enlargement of crofts in the township or of a common grazing used exclusively, or shared in, by the township;

(b) think fit, make provision with respect to all or any of the following matters—

(i) the admission into the township of new crofters and the allocation to them of shares in the common grazing;

(ii) the apportionment for the exclusive use of the township of a part of any common grazing in which it shares;

(iii) the inclusion in any croft formed under the scheme of a part of the common grazing or of any land held in runrig;

(iv) any other matter incidental to or consequential on the provisions of the scheme.**]**

(4) For the purposes of a reorganisation scheme **[**F186, or provisional draft or draft of such a scheme,**]** the Commission shall prepare such maps and plans as may be necessary to indicate the general effect of the scheme **[**F187or, as the case may be, of the provisional draft or draft,**]** and its effects on each of the crofts in the township.

[F188(5) Where, in relation to any township, the Commission prepare a provisional draft reorganisation scheme under subsection (1) above, they shall serve on each of the persons mentioned in subsection (10) below a copy of the provisional draft together with a notice—

(a) naming a place within the locality in which the township is situated where a copy of the maps and plans prepared by the Commission under subsection (4) above in relation to the provisional draft scheme may be inspected at all reasonable hours;

(b) inviting the person on whom the provisional draft and notice are served, within two months of the date of such service, to make in writing to the Commission such comments as they may wish to make on the provisional draft, maps or plans.

Where any crofter on whom such a notice as aforesaid has been served fails to comply with the request contained in such notice, he shall for the purposes of this section be deemed to have intimated to the Commission in compliance with the said request that he is in favour of the scheme.

(6) Where, having taken into account comments (if any) made to them by virtue of subsection (5) above, the Commission are still satisfied as mentioned in subsection (1) above, they shall—

(a) prepare a draft reorganisation scheme in relation to the township taking into account such comments;

(b) serve on each of the persons mentioned in subsection (10) below a copy of the draft scheme together with a notice—

(i) naming a place within the locality in which the township is situated where a copy of any maps and plans prepared by the Commission under subsection (4) above in relation to the draft scheme may be inspected at all reasonable hours; and

(ii) requesting that the person on whom the draft and notice are served, within one month after the date of such service, intimates to the Commission in writing whether or not that person is in favour of the draft scheme.

(7) Where any person on whom a notice has been served under subsection (6) above fails to comply with the request contained in the notice, that person shall for the purposes of this section be deemed to have intimated to the Commission, in compliance with the request, that the person is in favour of the draft scheme.

(8) If, within the period of one month mentioned in subsection (6)(b)(ii) above, a majority of the crofters on whom a copy of a draft reorganisation scheme and a notice have been served under that subsection have intimated to the Commission, in compliance with the request contained in the notice, that they are in favour of the draft scheme, the Commission shall, where they remain satisfied as mentioned in subsection (1) above—

(a) prepare a reorganisation scheme in relation to the township; and

(b) serve on each of the persons mentioned in subsection (10) below a copy of the scheme together with a notice—

(i) naming a place within the locality in which the township is situated where a copy of any maps and plans prepared by the Commission under subsection (4) above in relation to the scheme may be inspected at all reasonable hours; and

(ii) advising of the right of appeal to the Land Court under section 38A of this Act against the Commission's decision to reorganise the township or the scheme and of the time limit within which an appeal may be made.

(9) For the purposes of section 38A of this Act, the Commission's proceeding, under subsection (8)(a) above, to prepare a reorganisation scheme shall be taken to comprise their decision to reorganise the township.

(10) The persons referred to in subsections (1A), (5), (6)(b) and (8)(b) above and section 38A(3)(b) of this Act are—

(a) each crofter who is the tenant of a croft situated in the township;

(b) the landlord of each such croft;

(c) each grazings committee appointed under section 47 of this Act in respect of any common grazing shared in by each such crofter;

[[F189](ca) each owner-occupier crofter whose croft is situated in the township;**]**

(d) each person occupying land which is contiguous to a croft situated in the township;

(e) the owner of, and each person who holds shares in, a common grazing associated with the township;

(f) if the reorganisation scheme makes (or as the case may be is to make) provision with respect to the inclusion of such land as is mentioned in subsection (3)(a) above, the owner of, and each person occupying, that land.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(11) The requirements of subsections (1A) and (6)(b)(ii) above that intimation be in writing and in subsection (5)(b) above that comments be made in writing are to be taken to be satisfied by—

(a) the giving of intimation; or

(b) as the case may be, the making of comments,

in a form other than writing which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape).**]**

Textual Amendments

F183 Word in s. 38(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(2)(a)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F184 S. 38(1A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(2)(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F185 S. 38(3) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(2)(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F186 Words in s. 38(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(2)(d)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F187 Words in s. 38(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(2)(d)(ii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F188 S. 38(5)-(11) substituted for s. 38(5)-(7) (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(2)(e)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F189 S. 38(10)(ca) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(21)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

[F190 38A Appeal to Land Court: special provision as respects reorganisation schemes

(1) Any crofter who is the tenant of a croft situated in the township in relation to which a reorganisation scheme is made or the landlord of any such croft or **[F191** any owner-occupier crofter whose croft is situated in the township or**]** the owner of any common grazing associated with the township or the owner of any land included in the scheme by virtue of subsection (3)(a) of section 38 of this Act may, within 42 days after the Commission serve a copy of the reorganisation scheme on him under subsection (8)(b) of that section, appeal **F192**..., on one or more of the grounds mentioned in section 52A(3) of this Act, to the Land Court against—

(a) the Commission's decision to reorganise the township; or

(b) the scheme.

(2) For the purposes of this section, the references in section 52A(3) to a "direction" and to "making" a direction are to be construed as including, respectively, references to a reorganisation scheme and to preparing such a scheme.

(3) In an appeal under this section, the Court may—

(a) confirm the decision and the scheme;

(b) confirm the decision and require the Commission to—

(i) make, by a date specified by the Court, such modifications to the scheme as the Court directs; and

(ii) serve a copy of the modified scheme on each of the persons mentioned in section 38(10) of this Act; or

(c) revoke the Commission's decision.**]**

Textual Amendments

F190 S. 38A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(3)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F191 Words in s. 38A(1) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(22)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F192 Words in s. 38A(1) repealed (1.2.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 50(1)(b)**, 57(2) (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with arts. 4, 5(3))

39 Putting into effect of reorganisation schemes.

[F193(1) The Commission shall not take any steps in discharge of their duties or powers under this section in relation to a reorganisation scheme until (whichever first occurs)—

(a) the period of 42 days mentioned in section 38A(1) of this Act has elapsed without any appeal to the Land Court under that section being made; or

(b) every such appeal timeously made is—

(i) decided and, where by virtue of subsection (3)(b)(i) of section 38A of this Act the Land Court has required modifications to be made to the scheme, those modifications have been made and the Commission have complied with subsection (3)(b)(ii) of that section; or

(ii) abandoned.

(1A) **[**F194Subject to subsection (2A),**]** The Commission—

(a) shall put into effect a reorganisation scheme—

(i) prepared by them under section 38(8)(a); or

(ii) where by virtue of subsection (3)(b)(i) of section 38A of this Act the Land Court has required modifications to be made to the scheme, of which they have served a copy by virtue of subsection (3)(b)(ii) of that section; and

(b) may do all such things as are required for that purpose.**]**

(2) **[**F195Subject to subsection (2B),**]** A reorganisation scheme shall be put into effect on such date as may be appointed by the Commission, and the Commission may appoint different dates in respect of different provisions of the scheme, and any reference in this Act to the date on which a reorganisation scheme is put into effect shall, in relation to any land, be construed as a reference to the date on which the provisions of that scheme which apply to such land are put into effect.

[F196(2A) Before putting into effect a reorganisation scheme which contains provision—

(a) forming a croft;

(b) making any change to, or in relation to, a croft,

the Commission must submit, in accordance with Part 2 of the 2010 Act, an application for registration of the croft so formed, the croft affected by the change or, as the case may be, the change to the croft.

(2B) The date appointed under subsection (2) for the putting into effect of any provision of a reorganisation scheme in respect of which an application for registration under subsection (2A) is made is to be the date of registration.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(3) The Commission **[**F197may**]** remit the scheme to the Land Court to fix the sums which will become payable on the scheme being put into effect—

(a) to each person who immediately before the said date was the tenant of a croft in the township, by way of compensation in respect of permanent improvements by reason of the termination of his tenancy by virtue of subsection (6) below;

(b) by each person (whether or not he was immediately before the said date the tenant of a croft in the township) who under the scheme becomes the tenant of a croft, in respect of the permanent improvements on that croft; and

(c) by way of rent in respect of each of the crofts formed under the scheme.

F198(4) . . . . . .

(5) The rent fixed by the Land Court in pursuance of subsection (3)(c) above in respect of any croft shall not be altered, except by agreement between the landlord and the crofter, for a period of 7 years from the term at which it first became payable.

[F199(5A) Subsection (3A) of section 6 of this Act applies in relation to subsection (5) above as it applies in relation to the proviso to subsection (3) of that section.**]**

(6) For the purpose of putting into effect the provisions of a reorganisation scheme, the Commission shall serve on the tenant and on the landlord of every croft to which those provisions apply and on any person (other than such a tenant) who under the scheme is to become the tenant of a croft a notice specifying the date on which the scheme is to be put into effect, and where such notices have been served-—

(a) every such tenant shall be deemed to have given notice renouncing the tenancy of his croft immediately before the said date; and

(b) each person (whether or not such a tenant) who under the scheme is to become the tenant of a croft shall on that date become the tenant of that croft.

(7) Where any buildings situated on land to which a reorganisation scheme applies will on the putting into effect of the scheme cease to be required in connection with the occupation of that land, the Commission shall**[**F200**]**... give notice to that effect to the landlord of the land, and thereupon subsections (7) and (8) of section 23 of this Act shall apply in relation to the buildings first mentioned as if the said notice had been a notice given under the said subsection (7) to the landlord by the Commission immediately before the date of the putting into effect of the scheme.

A notice given under this subsection to a landlord by the Commission shall inform the landlord of the effect of this subsection in relation to the buildings in respect of which the notice is given.

(8) Where a reorganisation scheme provides, in pursuance of section 38(3)(a) of this Act, for the inclusion in the scheme of land in the vicinity of the township, the **[**F201Commission shall**]** serve—

(a) on the occupier of any such land who is not the owner thereof, a copy of the scheme together with a notice terminating his interest in the land on the expiry of 3 months from the date of the service of the notice; and

(b) on the owner of any such land a copy of the scheme together with a notice requiring him to enter into an undertaking that he will, on the date on which the scheme is put into effect, let the land in accordance with the provisions of the scheme **[**F202, and shall send a copy of each notice served by them under this subsection to the Scottish Ministers**]** .

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(9) Where the interest in any land of the occupier of that land is terminated in pursuance of subsection (8)(a) above, the Secretary of State shall be deemed to be authorised to purchase the said interest compulsorily and to have served notice to treat in respect thereof on the date on which the interest is terminated as aforesaid.

(10) Where—

(a) the owner of any land fails within 2 months from the date on which a notice is served on him under paragraph (b) of subsection (8) above to enter into such an undertaking as is mentioned in that paragraph or, having entered into such an undertaking, fails to let the land in accordance with the provisions of the scheme on the date on which the scheme is put into effect; or

(b) the owner of any land to which any provision contained in a reorganisation scheme applies gives to the Secretary of State, within 2 months from the date on which notice **[**F203is served on him under subsection (6) above**]** , notice requiring the Secretary of State to purchase the land;

the Secretary of State shall be deemed to be authorised to purchase the said land compulsorily and to have served notice to treat in respect thereof immediately before the date on which the scheme is put into effect.

Any purchase of land under this subsection shall be deemed to be completed immediately before the date on which the scheme is put into effect, and the Secretary of State shall, as the landlord of such land, be liable to pay or, as the case may be, entitled to receive any such sum as is mentioned in subsection (3)(a) or (b) above which becomes payable on the said date and any sum payable on that date under section 34(1) of this Act by way of compensation for deterioration of, or damage to, fixed equipment on the land.

(11) This section and section 38 of this Act shall, unless the context otherwise requires, apply in relation to a group of neighbouring townships as they apply in relation to a township.

Textual Amendments

F193 S. 39(1)(1A) substituted for s. 39(1) (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(4)(a)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F194 Words in s. 39(1A) inserted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(23)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c)

F195 Words in s. 39(2) inserted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(23)(b)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c)

F196 S. 39(2A)(2B) inserted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(23)(c)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 18)

F197 Word in s. 39(3) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(4)(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F198 S. 39(4) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 2** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F199 S. 39(5A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(4)(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F200 Words in s. 39(7) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(4)(d)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F201 Words in s. 39(8) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(4)(e)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

F202 Words in s. 39(8) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(4)(e)(ii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F203 Words in s. 39(10)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(4)(f)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Commission to obtain information and compile register of crofts

40 Obtaining of information by Commission.

(1) **[**F204Without prejudice to any other provision of this Act whereby information may or shall be obtained by them, the Commission may by notice under this section**]** served on the owner or the occupier of any holding **[**F205, or on the executor of the person who most recently was the owner or occupier of any holding,**]** require him to furnish them with such information as may be specified in the notice with regard to the extent, the rent and the tenure of the holding and with regard to such other matters relating to the ownership or the occupation of the holding as the Commission may reasonably require for the execution of their functions under this Act.

[F206(1A) The information mentioned in subsection (1) above includes the age and date of birth of the owner or occupier of the holding or such other person or class of person as may be specified in the notice.**]**

(2) If any **[**F207owner, occupier or executor**]** on whom a notice has been served under subsection (1) above—

(a) fails without reasonable cause or neglects to furnish to the Commission within 3 months after the service of the notice the information specified in the notice; or

(b) in furnishing such information as aforesaid knowingly or recklessly furnishes any information which is false in a material particular,

he 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.

[F208(3) Where the Commission impose a requirement under subsection (1) above, to provide information on any person making an application under this Act (the requirement being for the purposes of the application), the Commission may if they think fit decline to do anything in relation to the application until they are satisfied either that the requirement has been complied with or that it is not practicable to comply with the requirement.

(4) If the Commission are satisfied that it is not practicable to comply with the requirement (the "original requirement") they may modify it; and subsection (3) above shall apply in relation to the modified requirement as that subsection applies to the original requirement.

(5) This section applies in relation to a common grazing as it applies in relation to a holding except that for the purposes of that application references in the section to an occupier of a holding are to be construed as references to a crofter who shares in the common grazing.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F204 Words in s. 40(1) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 4(a)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F205 Words in s. 40(1) inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 4(a)(ii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F206 S. 40(1A) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(24)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F207 Words in s. 40(2) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 4(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F208 S. 40(3)-(5) added (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 4(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

[F209 40A Annual notices

(1) The Commission must—

(a) by notice given to each crofter, require the crofter to provide the Commission with the information mentioned in subsection (2);

(b) by notice given to each owner-occupier crofter, require the crofter to provide the Commission with the information mentioned in subsection (3).

(2) The information referred to in subsection (1)(a) is—

(a) whether or not the crofter is complying with the duties mentioned in sections 5AA, 5B and 5C;

(b) where the crofter is not complying with one or more of those duties—

(i) in the case of the duty mentioned in section 5AA, whether the Commission have granted consent under section 21B;

(ii) in any case (other than the duty not to misuse the croft), whether a subtenant of the crofter by virtue of a lease to which section 27 applies is complying with the duty; and

(c) information relating to any other matter the Commission may require.

(3) The information referred to in subsection (1)(b) is—

(a) whether or not the owner-occupier crofter is complying with the duties mentioned in section 19C(2);

(b) where the owner-occupier crofter is not complying with one or more of those duties—

(i) in the case of the duty mentioned in section 19C(2)(a), whether the Commission have granted consent under section 21B;

(ii) in any case (other than the duty not to misuse the croft), whether a tenant of the crofter by virtue of a short lease (within the meaning of section 29A) is complying with the duty; and

(c) information relating to any other matter the Commission may require.

(4) The first notices under subsection (1) must be given as soon as reasonably practicable after the end of the period of 1 year beginning with the day section 36 of the 2010 Act comes into force.

(5) Subsequent notices must be given as soon as reasonably practicable after the end of each successive 1 year period.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(6) Subsection (2) of section 40 applies to a notice given under subsection (1) of this section as it applies to a notice served under subsection (1) of that section.

(7) Section 55(1A) does not apply to a notice given under subsection (1).**]**

Textual Amendments

F209 S. 40A inserted (1.4.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 36**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 2 (with art. 4)

41 Register of Crofts.

(1) It shall be the duty of the Commission to compile and maintain **[**F210the register known as the Register of Crofts**]** .

(2) There shall be entered in the Register of Crofts—

(a) the name, location, rent and extent of every croft;

(b) the name **[**F211, age and date of birth**]** of the tenant and the landlord of each croft;

F212(c) . . . . . .

[F213(ca) the landlord's address and, where the tenant's address is different from the address of the croft, the tenant's address;

(cb) where the landlord's estate is managed on his behalf by another person, a statement that it is so managed and the name and address of that other person;

(cc) where the tenant of a croft holds a right in a common grazing—

(i) the location and boundaries of the grazing;

(ii) the owner of the grazing and his address;

(iii) any use of the grazing as woodlands by virtue of section 50, or of woodlands as part of the grazing by virtue of section 50A, of this Act; and

(iv) any other use of the grazing, except use for grazing purposes, use as woodlands or use regulated by a scheme drawn up by the Commission under section 52(9) of this Act;

(cd) any—

(i) determination by the Commission under section 3A(7)(a) of this Act or by the Land Court on any question coming before it (whether or not on appeal) under this Act;

(ii) order under **[**F214section 26H(1)**]** of this Act;

(iii) direction under section 24(3) **[**F215, 24B(1)**]** or 25(4) of this Act;

(iv) reorganisation scheme prepared under section 38(8)(a) of this Act;

(v) apportionment under section 52(3) or (4) of this Act; and

(vi) order under section 53B(2) of this Act;

(ce) any other order, determination, consent, authorisation or other proceeding of theirs which they consider it is appropriate to have recorded in the Register of Crofts;

(cf) any agreement between a landlord and a crofter concerning access between a public road and the croft by a route lying wholly over land owned by the landlord, being an agreement intimated to the Commission by the landlord or crofter (the intimation being in such form as the Commission may require and

there being provided to the Commission, along with the intimation, a copy of the agreement);

(cg) any agreement for a loan sent to the Commission by virtue of section 46A(2)(e) of this Act;**]**

(d) such other matters relating to each croft as the Commission may, with the approval of the Secretary of State, decide are proper to be entered in the Register;

and the Commission shall from time to time insert new entries in the Register or alter or omit existing entries so far as may be necessary to ensure **[**F216, so far as practicable, that the Register is consistent with such information as the Commission has obtained under or by virtue of this Act**]** and shall send a copy of any new entry, or of any entry altered by them, to the landlord and the tenant of the croft concerned, and shall intimate the omission of any entry to the owner and the tenant (if any) of the land concerned:

F217 ...

[F218(2A) Subsection (2) above applies in relation to land constituted as a common grazing under section 51A of this Act, the owner of that land and the persons sharing in the common grazing as it applies in relation to a croft and its landlord and tenant; and an entry made by virtue of this subsection must contain the information that the common grazing is so constituted.**]**

[F219(3) A person is entitled on request to receive from the Commission a copy or extract of an entry in the Register of Crofts.

(3A) An extract of an entry in the Register of Crofts shall be certified as such by a person authorised for the purposes of this subsection by the Commission; and a document which bears to be an extract so certified shall be sufficient evidence that the Register contains the entry.**]**

(4) The register of crofts compiled by the Commission under section 15(2) of the 1955 Act shall, so far as it contains particulars which are required by or under subsection (2) above to be entered in the Register of Crofts, be deemed to have been compiled by the Commission in pursuance of subsection (1) above.

[F220(5) The Crofters Holdings Book shall be incorporated into the Register of Crofts and as so incorporated shall be deemed to have been compiled by the Commission in pursuance of subsection (1) above.**]**

Textual Amendments

F210 Words in s. 41(1) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(9)(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F211 Words in s. 41(2)(b) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(25)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F212 S. 41(2)(ca)-(cg) substituted for s. 41(2)(c) (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 5(a)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, **art. 2**

F213 S. 41(2)(ca)-(cg) substituted for s. 41(2)(c) (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 5(a)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F214 Word in s. 41(2)(cd)(ii) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(25)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F215 Word in s. 41(2)(cd)(iii) inserted (retrospective to 1.10.2011) by Crofting (Amendment) (Scotland) Act 2013 (asp 10), ss. 3, 6, **sch. para. 1(5)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

F216 Words in s. 41(2) substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 5(a)(ii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F217 Words in s. 41(2) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 2** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F218 S. 41(2A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(9)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F219 S. 41(3)(3A) substituted for s. 41(3) (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 5(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F220 S. 41(5) added (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 5(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

Financial assistance to crofters, cottars and certain owner- occupiers etc

42 Crofters.

(1) For the purpose of **[**F221supporting any reasonable use which promotes the sustainable development of**]** crofts, the Secretary of State may, after consultation with the Commission F222..., make schemes for providing grants F222... to crofters.

[F223(1A) Such schemes shall specify criteria for determining who shall be eligible for grants payable under those schemes (as for example, the occupier's income, or the rental or agricultural value or extent of his croft); and different schemes may specify different criteria.**]**

(2) Any scheme under subsection (1) above may—

(a) provide for the administration, through the agency of the Commission, of the grants F224... payable thereunder;

(b) make provision enabling the **[**F225Scottish Ministers, or the Commission on behalf of the Ministers,**]** to recover the grant F226... in such circumstances and from such person as may be specified in the scheme;

(c) provide that, where the grant F227... is being given in respect of a common grazing and a grazings committee or a grazings constable has been appointed under section 47 of this Act, the Secretary of State shall pay the grant F227... to the clerk of the grazings committee or the constable for the benefit of the crofters concerned.

(3) Any scheme under subsection (1) above shall be embodied in a statutory instrument which shall be laid before Parliament after being made, and any such scheme may be varied or revoked by a subsequent scheme made in the like manner.

(4) **[**F228Without prejudice to subsection (1) above,**]** The Secretary of State may, in accordance with arrangements made by him F229..., provide assistance by way of grants F229... towards the erection or improvement or rebuilding of dwelling-houses and other buildings for crofters or towards the provision or improvement of roads, or water or electricity or gas supplies.

F230(5) . . . . . .

(6) Regulations shall be made by the Secretary of State—

(a) for securing that, where a grant has been made towards the erection, improvement or rebuilding of a dwelling-house or other building, conditions with respect to the occupation and maintenance thereof shall apply thereto for

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

such period from the completion of the work (not being longer than 40 years) as may be specified in the regulations;

(b) for securing that in the event of a breach of any of the conditions the **[**F231Scottish Ministers, or the Commission on behalf of the Ministers,**]** may recover from such person as may be specified in the regulations a sum bearing the same proportion to the grant made as the period between the date of the breach of the condition and the expiration of the period specified under paragraph (a) above bears to the last mentioned period, together with interest on such sum from the date on which the grant was made at such a rate as may be specified in the regulations;

(c) for providing that the conditions applied by the regulations to a dwelling-house or building shall cease to apply on payment to the **[**F232Scottish Ministers, or to the Commission on behalf of the Ministers,**]** by such person as may be specified in the regulations of such amount as may be so specified;

(d) for securing that, where any conditions apply to a dwelling-house or building by virtue of the regulations, the Secretary of State shall cause to be recorded in the Register of Sasines or, as the case may be, registered in the Land Register of Scotland a notice in a form prescribed by the regulations specifying the conditions which by virtue of the regulations apply to the dwelling-house or building; and that, where such conditions cease so to apply by virtue of such a payment F233... as is referred to in paragraph (c) above, the Secretary of State shall cause to be so recorded or registered a notice in a form prescribed as aforesaid stating that the conditions no longer apply to the dwelling-house or building;

(e) for such other incidental and supplementary matters as appear to the Secretary of State to be requisite or expedient for the purposes aforesaid.

(7) The Secretary of State may make regulations providing that the conditions applied to any dwelling-house by regulations made under subsection (6) above shall not apply to such dwelling-house in such circumstances and to such extent as may be specified in the regulations made under this subsection.

(8) No **[**F234grant under subsection (1) above, nor assistance under subsection (4) above, shall be given towards carrying out any works**]** if assistance out of public money by way of grant or subsidy has been given under any other enactment towards the works in question.

(9) A person shall not be disqualified for receiving **[**F235a grant under subsection (1) above nor**]** assistance under subsection (4) above by reason only that, after he has applied for and the Secretary of State has undertaken to provide such assistance, he has become the owner of the croft in respect of which the application was made.

[F236(9A) Any scheme under subsection (1) above or arrangements under subsection (4) above may provide that a person's economic status is a criterion for eligibility for grants payable under that scheme or those arrangements.**]**

(10) If any person, for the purpose of obtaining for himself or any other person a grant F237... under a scheme made under subsection (1) above or under **[**F238arrangements made unde**]** subsection (4) above, knowingly or recklessly makes a false statement he shall be guilty of an offence and shall be liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F221 Words in s. 42(1) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F222 Words in s. 42(1) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F223 S. 42(1A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F224 Words in s. 42(2)(a) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(c)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F225 Words in s. 42(2)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(c)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F226 Words in s. 42(2)(b) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(c)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F227 Words in s. 42(2)(c) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(c)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F228 Words in s. 42(4) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(d)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F229 Words in s. 42(4) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(d)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F230 S. 42(5) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F231 Words in s. 42(6)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(f)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F232 Words in s. 42(6)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(f)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F233 Words in s. 42(6)(d) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(f)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F234 Words in s. 42(8) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(g)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F235 Words in s. 42(9) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(h)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F236 S. 42(9A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F237 Words in s. 42(10) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(j)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F238 Words in s. 42(10) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(10)(j)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F239 43 Supplementary provisions as to loans under s.42.

. . . . . .

Textual Amendments

F239 S. 43 repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 2** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

44 Cottars

The Secretary of State shall have the like powers to provide assistance by way of **[**[F240]grant**]** for the erection, improvement or rebuilding of dwelling-houses and other buildings for cottars as he has to provide assistance for the erection, improvement or rebuilding of dwelling-houses and other buildings for crofters, and subsections (4), (6), (8), (9) and (10) of section 42 of this Act shall apply accordingly.

Textual Amendments

F240 Word in s. 44 substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(11)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

45 Former crofters and cottars who have acquired site of the dwelling-house.

(1) The Secretary of State may provide assistance under section 42(4) of this Act but not in respect of buildings other than dwelling-houses to—

(a) a person, being a crofter who has acquired the site of the dwelling-house on or pertaining to his croft after 10th June 1976;

(b) the nominee of such a person, being a member of his family, to whom the site was conveyed by the landlord of the croft;

(c) a member of such a person's family who has acquired the title to the site from that person or such nominee;

[[F241](ca) an owner-occupier crofter;**]**

(d) a person, being a cottar who has acquired the site of the dwelling-house on or pertaining to his subject after 10th June 1976,

[F242]...

[F243](2) . . . . . .

(3) Where a person other than the landlord was infeft in the site of the dwelling-house immediately before the conveyance, the reference in subsection (1)(b) above to the landlord shall be construed as a reference to the landlord and such other person for their respective rights.

(4) If any person, referred to in any of paragraphs (a) to (d) of subsection (1) above, for the purpose of obtaining for himself or any other person a grant [F244]... under section 42(4) of this Act, knowingly or recklessly makes a false statement he shall be guilty of an offence and shall be liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

Textual Amendments

F241 S. 45(1)(ca) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(26)(a)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F242 Words in s. 45(1) repealed (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(26)(b)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F243 S. 45(2) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(12)(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F244 Words in s. 45(4) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(12)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

46 Owner-occupiers of like economic status as crofters and other persons.

(1) The Secretary of State shall have the like powers to provide assistance by way of **[**F245grant**]** for the erection, improvement or rebuilding of buildings other than dwelling-houses or towards the provision or improvement of roads, or water or electricity or gas supplies **[**F246for owner-occupier crofters and**]** for owners of holdings to which subsection (2) below applies as he has to provide such assistance for crofters; and subsections (4), (6), (8) and (10) of section 42 of this Act shall apply accordingly.

(2) This subsection applies to any holding which—

(a) is situated in the crofting counties; and

(b) is either—

(i) a holding of which the area does not exceed 30 hectares, or

(ii) a holding of which the annual rent, if it were a croft let to a crofter under this Act, would not in the opinion of the Secretary of State exceed £100, or

(iii) a holding which exceeds 30 hectares and of which the annual rent if it were a croft so let would in the opinion of the Secretary of State exceed £100, but which in the opinion of the Secretary of State is not substantially larger than 30 hectares or is capable of being let as a croft at an annual rent not substantially in excess of £100; and

(c) is owned by a person who in the opinion of the Secretary of State **[**F247uses his holding in a way which is substantially the same as that of a crofter**]** ; and

(d) is occupied by the owner thereof.

F248(3) . . . . . .

(4) The Secretary of State shall have the like power to provide financial assistance—

[F249(a) for owner-occupier crofters; and**]**

(b) for occupiers of holdings, other than crofts, situated in the crofting counties which are either holdings of which the area does not exceed 30 hectares (exclusive of any common pasture or grazing held therewith) or holdings the annual rent of which, if they were crofts let to crofters under this Act, would not, in the opinion of the Secretary of State, exceed £100, being occupiers who in the opinion of the Secretary of State **[**F250use their holdings in a way which is substantially the same as that of a crofter**]** ; and

(c) for occupiers of holdings, other than crofts, situated in the crofting counties which exceed 30 hectares (exclusive of any common pasture or grazing held therewith) and of which the annual rent if they were crofts so let would in the opinion of the Secretary of State exceed £100, but which in the opinion of the Secretary of State are not substantially larger than 30 hectares (exclusive of any common pasture or grazing held therewith) or are capable of being so let at an annual rent not substantially in excess of £100, being occupiers who in the opinion of the Secretary of State **[**F250use their holdings in a way which is substantially the same as that of a crofter**]** ; and

(d) for subtenants of crofts or parts of crofts occupying under subleases intimated or granted as mentioned in section 29(2) of this Act**[**F251;

(e) for tenants of crofts or parts of crofts occupying under short leases granted as mentioned in section 29A,**]**

as he has by virtue of subsection (1) of section 42 of this Act to provide financial assistance for crofters; and accordingly the said subsection (1) shall have effect as if the reference therein to crofts included a reference to such **[**F252owner-occupied

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

crofts and**]** holdings and to parts of crofts and as if the reference therein to crofters included a reference to **[**F253owner-occupier crofters,**]** to occupiers of such holdings **[**F254, to subtenants of crofts or parts of crofts and to tenants of crofts or parts of crofts occupying under such short leases**]** .

(5) If any person, for the purpose of obtaining for himself or any other person, a grant F255... under a scheme made under section 42(1) of this Act as applied by subsection (4) above, knowingly or recklessly makes a false statement he shall be guilty of an offence and shall be liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

Textual Amendments

F245 Word in s. 46(1) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(13)(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F246 Words in s. 46(1) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(27)(a)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F247 Words in s. 46(2)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(13)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F248 S. 46(3) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(13)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F249 S. 46(4)(a) substituted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(27)(b)(i)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F250 Words in s. 46(4)(b)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(13)(d)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F251 S. 46(4)(e) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(27)(b)(ii)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F252 Words in s. 46(4) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(27)(c)(i)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F253 Words in s. 46(4) substituted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(27)(c)(ii)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F254 Words in s. 46(4) substituted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(27)(c)(iii)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F255 Words in s. 46(5) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(13)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

[F256**46A Regulations concerning loans**

(1) The Scottish Ministers may in accordance with regulations made by them under subsection (2) below provide loans to—

(a) crofters;

(b) cottars;

[owner-occupier crofters;**]**
F257(ba)

(c) owners of holdings to which section 46(2) of this Act applies.

(2) Regulations under this subsection may make provision as to—

(a) who is to be eligible for a loan;

(b) the amount which may be lent;

(c) the circumstances under which, and the purposes for which, a loan may be provided;

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(d) the terms and conditions applicable to any loan;

(e) arrangements for recording documents in connection with a loan in the Register of Crofts, the Land Register of Scotland or the Register of Sasines;

(f) arrangements for recovery of any loan (whether or not in its entirety) when the borrower dies;

(g) arrangements for assignation of the borrower's liabilities in consequence of the borrower dying or no longer occupying the holding in respect of which the loan was provided.**]**

Textual Amendments

F256 S. 46A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 32**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F257 S. 46A(1)(ba) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(28)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

Common Grazings

47 Appointment, etc., of grazings committee or grazings constable.

(1) The crofters who share in a common grazing may from time to time, at a public meeting **[**F258of which public notification has been given**]** , appoint a grazings committee of such number as the meeting shall decide; and a person may be appointed to be a member of a grazings committee notwithstanding that he is not a crofter.

F259(2) . . . . . .

(3) If the crofters who share in a common grazing fail at any time to appoint a grazings committee, the Commission may, after making such inquiry, if any, as they may deem necessary, appoint a grazings committee, or may appoint a person to be grazings constable; and a committee or constable so appointed shall have the like powers and duties as a grazings committee appointed under subsection (1) above.

(4) The term of office of the members of a grazings committee appointed under this section shall be 3 years, and at the expiry of that period a new grazings committee shall be appointed as aforesaid. A retiring member of a committee shall be eligible for re- election.

(5) A majority of the members of a grazings committee shall be a quorum; and any vacancy occurring in the membership of a grazings committee by reason of the death or resignation of a member shall be filled by nomination of the remaining members.

(6) A grazings committee appointed under subsection (1) above, or in the case of a grazings committee appointed under subsection (3) above the Commission, shall appoint some person, whether a member of the committee or not, to be the clerk of the committee.

[F260(6A) A person so appointed (or appointed under subsection (8) below to be the clerk of the committee) is in this Act referred to as the "grazings clerk".**]**

(7) The term of office of a grazings constable appointed by the Commission under subsection (3) above shall be such as may be specified in the instrument by which he is appointed, and he shall receive such annual remuneration as the Commission

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

may determine; and such remuneration shall be defrayed by an assessment levied in such manner as the Commission may deem reasonable on the crofters who share in the common grazing.

(8) If the Commission are satisfied, after making such inquiry, if any, as they may deem necessary, that any or all of the members [F261]... of a grazings committee (however appointed under this section) are not properly carrying out the duties imposed on them **[**[F262](or that the grazings clerk is not properly carrying out the duties imposed on him)**]** under this Act, the Commission may remove from office any or all such members or such clerk and may appoint or provide for the appointment of other persons (whether crofters or not) in their or his place.

(9) A grazings committee shall pay such annual remuneration to the **[**[F263]grazings clerk**]** as they may determine; and they may recover from the crofters sharing in the common **[**[F264]grazing**]** all expenditure incurred by them in paying such remuneration.

(10) For the purposes of the application of this Act to common grazings, any reference therein to a crofter shall include a reference to any person who, not being a crofter, is entitled to share in a common grazing along with crofters.

Textual Amendments

F258 Words in s. 47(1) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(14)(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F259 S. 47(2) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(14)(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F260 S. 47(6A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(14)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F261 Words in s. 47(8) repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(14)(d)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F262 Words in s. 47(8) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(14)(d)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F263 Words in s. 47(9) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(14)(e)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F264 Word in s. 47(9) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(14)(e)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

48 Powers and duties of grazings committees.

(1) It shall be the duty of a grazings committee—

(a) to maintain the common **[**[F265]grazing**]** and to provide, maintain and, if necessary, replace the fixed equipment required in connection **[**[F266]with such maintenance and with the implementation of any proposal approved under section 50B(11) of this Act**]** ;

(b) to carry out works for the improvement of such grazings and equipment;

[[F267](bb) to carry out works in implementation of any such proposal as is mentioned in paragraph (a) above;**]**

(c) to make and administer, with a view to their due observance, regulations (in this Act referred to as "common grazings regulations") with respect to the management and use of the common **[**[F268]grazing**]** :

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Provided that nothing in paragraph (a) or (b) above shall preclude a grazings committee from performing the duties therein specified on land other than the common **[**F269grazing**]** .

(2) The grazings committee shall give notice to each crofter sharing in the common **[**F270grazing**]** of any proposals to carry out works in pursuance of the duty imposed by subsection (1)(b) **[**F271or (bb)**]** above, or to plant trees under subsection (4) below, and the proposed allocation of the expenditure to be incurred in respect of those works or, as the case may be, that planting among such crofters; and any such crofter may within one month of the date of such notice make representations in respect of the proposals or the proposed allocation to the Commission who may approve the proposals or proposed allocation with or without modifications or reject them.

(3) Notwithstanding section 29(2) **[**F272or 29A(9)**]** of this Act, subsection (2) above shall have effect in a case where such a right is sublet **[**F273or, as the case may be, let**]** as if any reference to a crofter included a reference to a crofter in whose place a subtenant **[**F274or tenant**]** has come; but no liability to meet expenditure incurred by a grazings committee in the performance of the duties imposed on them by subsection (1)(b) above shall be imposed on such a crofter in respect of any period during which such a subtenancy **[**F275or tenancy**]** subsists.

(4) Subject to section 50 of this Act and to subsections (5) and (6) below, where the grazings committee have obtained the approval and consent referred to in subsection (1) of that section they may plant trees on, and use as woodlands, any part of the common grazing in accordance with the approval and consent.

[F276(4A) Where the grazings committee have obtained the approval referred to in subsection (6) of section 50B of this Act, they may, subject to any conditions imposed under subsection (11) of that section and for the time being in force (and to the approval not having been revoked), use any part of the common grazing in accordance with the proposal.**]**

(5) Where any crofter **[**F277who holds a right**]** in the common grazing requests them to do so, the grazings committee shall exercise their power under subsection (4) above.

(6) The power of the grazings committee under subsection (4) above shall not be exercised in such a way that the whole of the common grazing is planted with trees and used as woodlands.

[F278(6A) The powers of the grazings committee include the power to raise money (whether by borrowing or otherwise) for the purpose of implementing any proposal approved under section 50B(11) of this Act; but on any occasion they shall only exercise that power if a majority of the grazings committee vote to do so.**]**

(7) A person appointed by the Commission shall have power to summon and to attend any meeting of a grazings committee for the purpose of advising them and otherwise assisting them in the performance of their duties.

Textual Amendments

F265 Word in s. 48(1)(a) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F266 Words in s. 48(1)(a) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

F267 S. 48(1)(bb) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F268 Word in s. 48(1)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F269 Word in s. 48(1)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(a)(iv)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F270 Word in s. 48(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(b)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F271 Words in s. 48(2) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(b)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F272 Word in s. 48(3) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(29)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F273 Words in s. 48(3) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(29)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F274 Words in s. 48(3) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(29)(c)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F275 Words in s. 48(3) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(29)(d)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F276 S. 48(4A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F277 Words in s. 48(5) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(d)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F278 S. 48(6A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

49 Common grazings regulations.

(1) Every grazings committee shall, within 6 months after being required by the Commission so to do, make and submit to the Commission common grazings regulations.

(2) Without prejudice to the generality of the power conferred on a grazings committee by section 48(1)(c) of this Act, common grazings regulations shall make provision with respect to the following matters—

(a) the recovery by the grazings committee from the crofters sharing in the common **[**F279grazing**]** of all expenses incurred by the committee in maintaining the common **[**F279grazing**]** and in providing, maintaining or replacing any fixed equipment required in connection **[**F280with such maintenance or with the implementation of any proposal approved under section 50B(11) of this Act**]** ;

(b) the recovery by the grazings committee from such crofters of all expenses incurred by the committee in the performance of the duties imposed on them by subsection (1)(b) **[**F281or (bb)**]** , and the exercise of their powers under subsection (4), of section 48 of this Act according to the proposed allocation of expenditure referred to in subsection (2) of that section or, as the case may be, that allocation as approved or modified by the Commission under that subsection;

(c) the levying by the grazings committee on, and the recovery by them from, the crofters referred to in paragraph (a) above or, as the case may be, such of the crofters referred to in paragraph (b) above as are liable to pay any expenses as mentioned in that paragraph, in such proportions as may be specified in the regulations, such sums as will in the opinion of the committee be necessary

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

to enable the committee to meet any expenses which they may incur in the performance of the duties imposed on them by paragraphs (a) **[**F282to (bb)**]** of section 48(1) of this Act;

(d) the number and the kind of stock which each crofter is entitled to put on the common **[**F283grazing**]** ;

(e) the alteration of individual soumings where works for the improvement of the common **[**F284grazing**]** or the fixed equipment required in connection therewith have been carried out and all the crofters have not contributed to the expenses incurred in carrying out such works;

(f) where appropriate, the cutting of peats and the collection of seaweed;

(g) subject to the provisions of this Act, the summoning of meetings of the grazings committee and the procedure and conduct of business at such meetings.

(3) Common grazings regulations may—

(a) restrict the use of any part of the common **[**F285grazing**]** on which works of improvement have been carried out to crofters who contribute towards the expenses incurred by the common grazings committee in carrying out those works;

(b) where the use of any part of the common **[**F286grazing**]** is restricted as aforesaid, regulate the number and kinds of stock which each contributing crofter may put on that part and the number and kinds of stock which each crofter (whether or not he is a contributing crofter) may put on the remainder of the common **[**F286grazing**]** .

(4) Common grazings regulations made by a grazings committee shall be of no effect unless confirmed by the Commission. The Commission may confirm with or without modification or refuse to confirm any common grazings regulations submitted to them for confirmation, and may fix the date on which the regulations are to come into operation; and if no date is so fixed, the regulations shall come into operation at the expiration of one month from the date of their confirmation.

(5) If a grazings committee fail within the time limited by subsection (1) above to make and submit to the Commission common grazings regulations or to make and submit to the Commission common grazings regulations which in the opinion of the Commission are sufficient and satisfactory, the Commission may themselves make such common grazings regulations, which shall have the like force and effect as if they had been made by the grazings committee and confirmed by the Commission.

(6) A grazings committee may from time to time, and, if so required by the Commission, shall within the time limited by such requirement, make further regulations amending the common grazings regulations for the time being in force, and subsections (4) and (5) above shall apply to any such amending regulations subject to any necessary modifications.

(7) Before confirming, making or amending regulations in accordance with the foregoing provisions of this section, the Commission shall consult the **[**F287owner**]** of the common **[**F288grazing**]** to which the regulations relate; and the Commission shall send a copy of any regulations so confirmed, made or amended to the **[**F287owner**]** and to the grazings committee.

(8) Common grazings regulations for the time being in force under this section shall have effect notwithstanding anything contrary thereto or inconsistent therewith contained

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

in any lease or other agreement, whether entered into before or after the coming into force of such regulations.

[F289(9) Nothing contained in a scheme a copy of which has been entered, under section 19A of this Act, in the Register of Crofts is, for the purposes of subsection (8) above, an agreement.**]**

Textual Amendments

F279 Word in s. 49(2)(a) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F280 Words in s. 49(2)(a) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F281 Words in s. 49(2)(b) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F282 Words in s. 49(2)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F283 Word in s. 49(2)(d) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(iv)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F284 Word in s. 49(2)(e) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(iv)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F285 Word in s. 49(3)(a) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(b)(i)** (with ss. 40, 43(2)); sch.S.S.I. 2007/269, art. 2,

F286 Words in s. 49(3)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(b)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F287 Word in s. 49(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(c)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F288 Word in s. 49(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(c)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F289 S. 49(9) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 30(2)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

[F290**49 AGrazings committees: duty to report**

(1) Each grazings committee must report to the Commission on—

(a) the condition of the common grazing;

(b) the condition of every croft of a crofter sharing in the grazing;

(c) the condition of every owner-occupied croft of an owner-occupier crofter sharing in the grazing;

(d) any other matter the Commission may require.

(2) Where the committee consider that—

(a) a crofter sharing in the grazing is not complying with a duty mentioned in section 5AA, 5B or 5C;

(b) an owner-occupier crofter sharing in the grazing is not complying with a duty mentioned in section 19C(2),

the report under subsection (1) must also include information on that matter.

(3) A report under subsection (1) may also include information on any other matter affecting—

(a) the common grazing;

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(b) crofting in any township associated with the grazing,

as the committee consider appropriate.

(4) The first report under subsection (1) must be submitted as soon as reasonably practicable after the end of the period of 1 year beginning with the day section 38 of the 2010 Act comes into force.

(5) Each subsequent report must be submitted as soon as reasonably practicable after the end of each successive period of 5 years.**]**

Textual Amendments

F290 S. 49A inserted (1.4.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 38**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 2 (with art. 4)

50 Use of common grazings for forestry purposes.

(1) Where a grazings committee or any crofter **[**F291who holds a right**]** in the common grazing proposes that the committee should, in exercise of their power under section 48(4) of this Act, plant trees on, and use as woodlands, any part of the common grazing, the committee shall apply for—

(a) the approval of the Commission; and

(b) the consent of the **[**F292owner**]** of the common grazing,

to the use as woodlands of the part of the common grazing concerned.

(2) **[**F293An owner's**]** consent—

(a) shall be in writing;

(b) shall specify the part of the common grazing to which it relates;

[F294(bb) may be given subject to conditions provided that those conditions are reasonable;**]**

(c) shall be intimated to the Commission by the **[**F295owner**]** or the grazings committee;

(d) shall not take effect until it is entered in the Register of Crofts; and

(e) shall, when entered in that Register, be binding on the successors to the **[**F296owner's**]** interest.

[F297(2A) An owner may refuse consent on (and only on) the grounds that implementation of the proposal would—

(a) adversely affect the exercise of any rights which he has under or by virtue of Schedule 2 to this Act;

(b) prevent an intended resumption by virtue of section 20(1) of this Act;

(c) be detrimental to the sound management of the estate which comprises the land;

(d) cause hardship to a crofter who shares in the common grazing;

(e) cause the owner undue hardship; or

(f) lessen significantly the amenity of (either or both)—

(i) the land;

(ii) its surrounding area;

and without prejudice to subsection (2B) below any refusal shall be in writing and shall specify the grounds of refusal.

(2B) If, within six weeks after application under subsection (1)(b) above, there has neither been written consent nor written refusal, the owner shall be deemed to have refused the application.

(2C) If, on an application—

(a) under sub-paragraph (i) of section 53(1)(e) in relation to a consent applied for under subsection (1)(b) above but refused, the Land Court is not satisfied that any of the grounds mentioned in subsection (2A) above has been made out, it may determine that the consent is to be deemed given, or

(b) under sub-paragraph (ii) of that section in relation to a consent so applied for but granted subject to a condition, the Land Court is not satisfied that the condition is reasonable, it may determine that the consent is to be deemed given—

(i) free of the condition; or

(ii) subject instead to a condition specified in the determination.**]**

(3) **[**[F298]An owner's**]** consent shall cease to have effect if the grazings committee have not commenced planting of trees on the part of the common grazing to which the consent relates on the expiry of the period of seven years beginning with the date on which the consent is entered in the Register of Crofts.

[[F299](3A) The Commission shall, on receipt of any application under subsection (1)(a) above, consult as regards the proposal the owner, the crofters who share in the common grazing and such other persons as appear to the Commission to have an interest.

(3B) The reference in subsection (1) above to using as woodlands is to having the right to exclusive economic and recreational use, including (without prejudice to that generality)—

(a) felling, removing, selling and replacing the trees in question;

(b) collecting trimmings, fallen timber, foliage, sap, flowers, fruit, seeds or nuts for use or sale;

(c) grazing animals in the woodlands; and

(d) selling timber, timber products and other forestry products,

except that this subsection is without prejudice to any person's access rights (within the meaning of Part 1 of the Land Reform (Scotland) Act 2003 (asp 2)).

(3C) Where the owner's consent is, under subsection (2)(bb) above, subject to a condition that land be fenced, or otherwise enclosed, any expenditure incurred in complying with that condition (including expenditure incurred in that connection in maintenance, repair or renewal) shall be met—

(a) in a case where the applicant is the grazings committee, by that committee, and

(b) in any other case, jointly and severally by the crofters sharing in the common grazing.**]**

[[F300](4) In this section, "owner's consent" means the consent of the owner referred to in subsection (1)(b) above (or a deemed such consent);**]**

[[F301](5) This section is without prejudice to section 50A of this Act and is subject to the terms of any agreement under that section.**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F291 Words in s. 50(1) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(a)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F292 Word in s. 50(1)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(a)(ii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F293 Words in s. 50(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(b)(i)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F294 S. 50(2)(bb) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(b)(ii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F295 Word in s. 50(2)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(b)(iii)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F296 Word in s. 50(2)(e) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(b)(iv)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F297 S. 50(2A)-(2C) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F298 Words in s. 50(3) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(d)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F299 S. 50(3A)-(3C) inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(e)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F300 S. 50(4) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(f)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F301 S. 50(5) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(g)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

[F302 50A Joint forestry ventures etc.

(1) A crofter who holds a right in a common grazing, or a grazings committee, may, with the agreement of the Commission, enter into a written agreement with the owner of the common grazing that they shall engage in a joint forestry venture to use woodlands as part of the common grazing concerned; and subject to subsection (4) below that agreement shall bind the parties to it and their successors.

(2) Subject to the terms of any agreement under subsection (1) above, where there are, on part of a common grazing which is to be used as woodlands by virtue of section 50 of this Act, trees other than such as are mentioned in paragraph 11(d) of Schedule 2 to this Act, the owner and the grazings committee may agree—

(a) that those trees are to be sold to the committee at current value; or

(b) that the owner is to be entitled to a share of the timber obtained from such use, being a share which is proportionate having regard to the numbers, respectively, of those trees and of the trees planted (or obtained from planned natural regeneration of the trees planted) in the course of such use.

(3) Where an agreement is entered into under subsection (1) or (2) above, a copy of that agreement shall be lodged with the Commission.

(4) The persons who for the time being are bound by the agreement in question may by written agreement lodged with the Commission under this subsection amend the agreement lodged under subsection (3) above (or as the case may be that agreement as last amended under this subsection).

(5) Any person who is for the time being bound by an agreement under subsection (2) above may appeal to the Land Court against a valuation carried out by virtue of paragraph (a), or the assessment of a share entitlement carried out by virtue of paragraph (b), of that subsection.

(6) In an appeal under subsection (5) above, the Land Court may reassess the value or entitlement in question.

(7) The valuer whose valuation is appealed against may be a witness in the appeal proceedings.

(8) In subsection (2)(b) above "planned natural regeneration" means regeneration which takes place in accordance with—

(a) an agreement entered into under or by virtue of this Act or of any other enactment; or

(b) the conditions of—

(i) any grant for purposes which include such regeneration and which is paid out of the Scottish Consolidated Fund; or

(ii) such other grant of a public nature as may be prescribed.

Textual Amendments

F302 S. 50A, 50B inserted (25.6.2007 for the insertion of s. 50A, 28.1.2008 in force in so far as not already in force) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(2)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.; S.S.I. 2007/568, art. 2

50B Use of common grazing for other purposes

(1) A crofter who holds a right in a common grazing may propose to the grazings committee (or, if there is no grazings committee, to the grazings constable) that a part of the common grazing be used other than for—

(a) grazings or a purpose mentioned in section 52(9) of this Act; or

(b) woodlands.

(2) The use proposed must not be such as would be detrimental to—

(a) the use being made, as at the time of application, of the other parts of the common grazing; or

(b) the interests of the owner.

(3) On receipt of a proposal made under subsection (1) above the grazings committee (or as the case may be the grazings constable) shall, for the purpose of there being a discussion and vote on the proposal, summon a meeting of the crofters who share in the common grazing.

(4) Regulations under section 49(2)(g) of this Act shall, in relation to any meeting so summoned, provide that—

(a) the time, place and purpose of the meeting (including the proposal in question) should be—

(i) set out in a notice sent by registered post to each of those crofters and to the owner; and

(ii) intimated by public notification,

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

at least 28 days before the meeting; and

(b) the grazings committee (or grazings constable) shall, in sending such notice to the owner—

(i) invite him to give his views as to the proposal; and

(ii) afford him the opportunity to discuss it, at such reasonable time before the meeting as is convenient to him, with a member of the committee (or with the grazings constable);

(c) at the meeting any views so given (or disclosed in discussion) shall be made known to the crofters attending;

(d) subject to subsection (5) below, the vote on the proposal shall be by simple majority of the votes cast by the crofters attending (a crofter being entitled to a single vote for each share in the common grazing which he holds);

(e) the result of the vote shall be declared at the meeting; and

(f) the owner shall be advised by the grazings committee (or grazings constable), by written notice given within two weeks after the meeting takes place, of its outcome (that is to say, of whether the proposal has been accepted or rejected, of the number of crofters present, of the numbers of votes, including votes by proxy or by post, respectively for and against and of the number of crofters attending but abstaining) and, if the vote is in favour of the proposal, of what subsection (6) of this section requires to be done.

(5) A crofter who is unable to attend the meeting so summoned but who has notified the grazings committee (or grazings constable) of that circumstance may vote by proxy or by post (provided that any vote posted shall be valid only if received by the committee before the meeting).

(6) If the vote is in favour of the proposal the committee (or grazings constable) shall[F303]... apply to the Commission seeking their approval for its implementation.

[F304](7) . . . . . .

[F304](8) . . . . . .

[F304](9) . . . . . .

[F304](10) . . . . . .

[F304](11) . . . . . .

[F304](12) . . . . . .

[F304](13) . . . . . .

[F304](14) . . . . . .

[F304](15)] . . . . . .

Textual Amendments

F302 S. 50A, 50B inserted (25.6.2007 for the insertion of s. 50A, 28.1.2008 in force in so far as not already in force) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(2)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.; S.S.I. 2007/568, art. 2

F303 Words in s. 50B(6) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(30)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F304 Ss. 50B(7)-(15) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(30)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

[F305 51 Enlargement of common grazings.

(1) This section applies where—

(a) an owner of land to which this Act does not apply agrees to grant rights in any pasture or grazing land to the crofters sharing in a common grazing; and

(b) the owner and the crofters agree that such land will form part of the common grazing.

(2) The owner and the crofters may apply jointly to the Commission for a direction that the land is to form part of the common grazing.

(3) The Commission may make a direction if they are satisfied that the enlargement of the common grazing would be of benefit to the common grazing or the crofters sharing in it.

(4) Where the Commission make a direction in relation to an unregistered common grazing, the land forms part of the common grazing from the later of—

(a) the date of the direction; or

(b) the date on which the rights mentioned in subsection (1)(a) are first exercisable.

(5) Where the Commission make a direction in relation to a registered common grazing—

(a) the direction expires at the end of the period of 3 months beginning with the date on which the direction is made unless an application for registration of the enlargement of the common grazing is submitted by virtue of section 25 of the 2010 Act before the expiry of that period;

(b) the enlargement takes effect on the date of registration.**]**

Textual Amendments

F305 S. 51 substituted (1.10.2011 for specified purposes, 30.11.2012 in force in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 47**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(3)); S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

[F306 51A New common grazing

(1) The Commission shall have power, on the application of the owner of any eligible land, to constitute the land as a common grazing F307....

(2) The Commission shall, on receipt of any such application, give public notification of it; and such notification shall specify a period within which comments as regards the application, being comments of the description given in subsection (10) below, may be made.

(3) After the period mentioned in subsection (2) above has elapsed the Commission—

(a) shall determine whether to exercise their power under subsection (1) above; and

(b) shall give public notification of that determination.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(4) In so determining the Commission shall have regard to—

(a) such written comments, if any, as are duly made by virtue of subsection (2) above;

(b) the public interest and the interests of the crofting community in the locality of the land; and

(c) whether social or economic benefits might be expected as a consequence of constituting the land as a common grazing.

(5) Land is eligible land for the purposes of subsection (1) above only if it is—

(a) neither tenanted nor occupied by a cottar;

(b) situated in the crofting counties but not constituted as a croft; and

(c) not adjacent or contiguous to a croft.

(6) The owner and the persons who are to share in the common grazing shall agree in writing what the use of the common grazing is to be; and subject to subsection (8) below that agreement shall bind –

(a) the owner and those persons; and

(b) the successors of the owner and of those persons;

and a copy of the agreement shall be lodged with the Commission.

(7) The use mentioned in subsection (6) above may be for (any or all)—

(a) grazings;

(b) a purpose mentioned in section 52(9) of this Act;

(c) woodlands;

(d) a purpose other than is mentioned in paragraphs (a) to (c) above,

and in the agreement different provision may be made for different parts of the common grazing.

(8) The persons who for the time being are the owner and the persons sharing in the common grazing may by written agreement lodged with the Commission under this subsection amend the agreement lodged under subsection (6) above (or as the case may be that agreement as last amended under this subsection).

(9) Section 6 of this Act applies in relation to land constituted as a common grazing under this section as it applies in relation to a croft.

(10) The description is that the comments are made in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape).

(11) For the purposes of subsection (10) above (and without prejudice to the generality of that subsection), comments are to be treated as made in writing where they are—

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.**]**

Textual Amendments

F306 S. 51A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 27**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F307 Words in s. 51A(1) repealed (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 27(1)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 3)

[F308 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).**]**

Textual Amendments

F308 S. 51B inserted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 27(2)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 3)

52 Miscellaneous provisions as to common grazings, as to lands held runrig, and as to use by crofters of peat bogs, etc.

[F309(1) Where it is averred by the grazings committee or the owner that a person has contravened, or failed to comply with, any common grazings regulations for the time being in force under section 49 of this Act, the committee or as the case may be the owner may apply to the Commission for a determination in the matter.

(1A) On receipt of an application made under subsection (1) above the Commission—

(a) shall serve notice on the person of the averment; and

(b) shall send a copy of that notice to the grazings committee and to the owner.

(1B) The person, the committee and the owner shall all be afforded the opportunity to make representations as regards the averment and if the Commission think fit the Commission may hear evidence in the matter.

(1C) If the Commission determine that the averred contravention or failure has occurred they may require the person—

(a) to conform with the regulation in question, and

(b) to make good, within such reasonable period as they shall specify, any damage which has directly resulted from the occurrence.

(1D) Where—

(a) a requirement imposed under subsection (1C) above is not complied with (and subsection (1E) below does not apply), the Commission—

(i) may determine that all or part of the person's share in the common grazing is suspended for such period as they shall specify; and

(ii) if the non-compliance consists in a failure to make good damage within the period specified under subsection (1C)(b) above, may require it be made good within such further period as they may specify,

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(b) all requirements imposed under subsection (1C)(a) above and any requirement imposed under sub-paragraph (ii) of paragraph (a) above (whether or not as that sub-paragraph applies by virtue of subsection (1E)(a) below) are complied with, the Commission may end a suspension imposed under sub-paragraph (i) of that paragraph.

(1E) Where, while all or part of the person's share in the common grazing is suspended by virtue of subsection (1D)(a)(i) above, a requirement imposed under subsection (1C)(a) above is not complied with as regards so much of the share as is not suspended, or as the case may be a requirement imposed under subsection (1D)(a)(ii) above is not complied with, the Commission—

(a) may (but on one occasion only) extend either or both periods mentioned in subsection (1D)(a) above; or

(b) may—

(i) determine that all or part of the person's share is terminated; and

(ii) apportion the share or part to other persons sharing in the common grazing.

[[F310](1EA) Where the Commission make a determination under subsection (1E) that all or part of a person's share in a registered common grazing is terminated—

(a) the Commission must, as soon as reasonably practicable after making the determination, submit an application for registration of the termination by virtue of section 25 of the 2010 Act;

(b) the termination takes effect on the date of registration.

(1EB) Any apportionment of all or part of a person's share in a registered common grazing under subsection (1E) above takes effect, as respects an application for registration of the apportionment by virtue of section 25 of the 2010 Act, on the date of registration.**]**

(1F) Reference in this section to a share in the common grazing includes reference to any rights and privileges pertaining to that share.**]**

(2) Where it is prescribed by the common grazings regulations applicable to the common **[**[F311]grazing**]** of a township that the right of a crofter to share in such **[**[F311]grazing**]** shall be conditional on his making his croft available during the winter season for the accommodation of any stock belonging to other persons sharing in such **[**[F311]grazing**]** , any crofter may apply to the grazings committee for their consent to the exclusion of such stock from his croft or from part thereof, and if he is dissatisfied with the decision of the committee on such application he may appeal therefrom to the Commission.

Any consent given under this subsection by a grazings committee or, on appeal, by the Commission may be given subject to such conditions, if any, as the committee or the Commission, as the case may be, may think proper.

(3) The Commission may, on the application of any crofters interested, after consultation with the grazings committee, apportion a common grazing shared by two or more townships into separate parts for the exclusive use of the several townships or may apportion a part of such grazing for the exclusive use of one of the townships.

[[F312](3A) In relation to a registered common grazing—

(a) any apportionment of the common grazing under subsection (3) expires at the end of the period of 3 months beginning with the date on which the common grazing was so apportioned unless an application for registration of

the apportionment is submitted by virtue of section 25 of the 2010 Act before the expiry of that period;

(b) the apportionment takes effect on the date of registration.**]**

(4) The Commission may, on the application of any crofter **[**F313who holds a right in a common grazing, and after consultation with the grazings committee, apportion a part of the**]** common grazing (including the site of the dwelling-house of the crofter so applying if situated on the common grazing), other than a part on which the grazings committee have planted trees and which they are using as woodlands under section 48(4) of this Act, for the exclusive use of the applicant.

(5) An application under subsection (4) above shall be competent notwithstanding that every part of the grazing except the part in respect of which the application is made has already been apportioned under that subsection.

[F314(5A) Where an application is made under subsection (4) by the crofter of an unregistered croft, the Commission—

(a) may not apportion a part of the common grazing 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 apportion a part of the common grazing was made;

(b) need not, during that 6 month period, consider the application to apportion a part of the common grazing until an application for first registration of the croft is submitted.

(5B) Where an application under subsection (4) by the crofter of a registered croft (other than a first registered croft) is granted—

(a) the apportionment of a part of the common grazing expires at the end of the period of 3 months beginning with the date on which the part was so apportioned unless an application for registration of the apportionment is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the apportionment takes effect on the date of registration.

(5C) In relation to a registered common grazing—

(a) any apportionment of a part of the common grazing under subsection (4) expires at the end of the period of 3 months beginning with the date on which the part was so apportioned unless an application for registration of the apportionment is submitted by virtue of section 25 of the 2010 Act before the expiry of that period;

(b) the apportionment of the part takes effect on the date of registration.

(5D) But subsection (5C) does not apply to an apportionment which takes effect by virtue of subsection (5B).**]**

(6) Where the Commission in pursuance of subsection (3) or (4) above apportion to a township or to an individual a part of a common grazing for its or his exclusive use, they may make the apportionment subject to such conditions, including conditions with respect to the fencing or the draining of the apportioned part, as they may think fit.

(7) Notwithstanding anything in the M15Ground Game Act 1880, it shall be lawful for the crofters interested in a common grazing or in a part of a common grazing apportioned under subsection (3) above—

(a) to appoint not more than two of their number; and

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(b) to authorise in writing one person bona fide employed by them for reward,

to kill and take ground game on the common grazing or the part thereof, as the case may be; and for the purposes of the said Act of 1880 any person appointed as aforesaid shall be deemed to be the occupier of the common grazing or the part thereof, but shall not have the right to authorise any other person to kill and take ground game, and any person authorised as aforesaid shall be deemed to have been authorised by the occupier of the common grazing or the part thereof to kill and take ground game with firearms or otherwise.

[F315(7A) Any transfer by a person who holds a right in a registered common grazing of that right to another person takes effect, as respects an application for registration of the transfer by virtue of section 25 of the 2010 Act, on the date of registration.**]**

(8) The Commission may, on the application of any landlord or crofter interested, apportion lands held runrig among the holders thereof in such manner and subject to such conditions as appears to the Commission in the circumstances of the case to be just and expedient.

[F316(8A) Subsection (5C) applies to an apportionment under subsection (8) of registered lands held runrig as it applies to an apportionment under subsection (4) of a part of a registered common grazing, with the modification that the reference to section 25 is to be construed as a reference to section 32.**]**

(9) The Commission may draw up a scheme regulating the use by crofters on the same estate of peat bogs, or of seaweed for the reasonable purposes of their crofts, or of heather or grass used for thatching purposes, and the charge for the use of all or any of these may be included in the rents fixed for the crofts.

[F317(10) Without prejudice to the generality of subsections (3), (4) and (8) above, the Commission may under any of those subsections (either or both)—

(a) apportion a part for a period;

(b) determine that an apportionment shall be subject to review at fixed intervals,

which they shall specify.

(11) The Commission may extend any such period as is mentioned in subsection (10)(a) above on the application of the township which, or as the case may be the crofter who, has exclusive use.

[In relation to a registered common grazing—

F318(11A) (a) any extension under subsection (11) of the period for which a part of a registered common grazing is apportioned ceases to have effect at the end of the period of 3 months beginning with the date on which the period was so extended unless an application for registration of the extension is submitted by virtue of section 25 of the 2010 Act before the expiry of that 3 month period;

(b) the extension takes effect on the date of registration.

(11B) Subsection (11A) applies to registered land held runrig as it applies to a registered common grazing, with the modification that the reference to section 25 is to be construed as a reference to section 32.**]**

(12) Without prejudice to subsection (10)(b) above, the Commission may, on the application of that township or crofter or of the grazings committee or owner—

(a) review an apportionment made in pursuance of subsection (3) or (4) above;

(b) (whether or not on such review)—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(i) vary or revoke any condition imposed under subsection (6) above;

(ii) impose a new condition under that subsection;

(iii) bring an apportionment made as mentioned in paragraph (a) above to an end.

[F319(12A) Subsection (12B) applies to an application by the crofter of a registered croft (other than a first registered croft) made under subsection (12) to bring to an end an apportionment made in pursuance of subsection (4).

(12B) Where the application is granted—

(a) the granting of the application expires at the end of the period of 3 months beginning with the date of the granting unless an application for registration of the bringing to an end of the apportionment is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the bringing to an end of the apportionment takes effect on the date of registration.

(12C) Where it is determined under subsection (12)(b)(iii) that an apportionment of a registered common grazing is to come to an end, the apportionment comes to an end, as respects an application for registration of the bringing of it to an end by virtue of section 25 of the 2010 Act, on the date of registration.

(12D) But subsection (12C) does not apply to an apportionment the bringing to an end of which takes effect by virtue of subsection (12B).**]**

(13) Where—

(a) a period of apportionment fixed under subsection (10)(a) above (or so fixed and extended under subsection (11) above) comes to an end; or

(b) it is determined on review under subsection (10)(b) above, or is determined under subsection (12)(b)(iii) above, that an apportionment is to come to an end,

the land in question reverts to being a common grazing.

(14) Where land reverts under subsection (13) above, the Commission may, having regard to the rights held in the common grazing immediately before the apportionment in question, make such determination as they consider equitable as to shares in the common grazing.

[F320(14A) Any determination under subsection (14) takes effect, as respects an application for registration of the making of the determination by virtue of section 25 of the 2010 Act, on the date of registration.**]**

(15) Subsections (10) to **[**F321(14A)**]** above do not apply as respects land constituted as common grazing under section 51A of this Act.**]**

Textual Amendments

F309 S. 52(1)-(1F) substituted for s. 52(1) (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 28**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F310 S. 52(1EA)(1EB) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(31)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(x))

F311 Word in s. 52(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(17)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

F312 S. 52(3A) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(31)(b)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(x))

F313 Words in s. 52(4) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 29(2)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F314 S. 52(5A)-(5D) 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(31)(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(w)19)

F315 S. 52(7A) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(31)(d)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(x))

F316 S. 52(8A) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(31)(e)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(x))

F317 S. 52(10)-(15) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 29(3)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F318 S. 52(11A)(11B) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(31)(f)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(x))

F319 S. 52(12A)-(12D) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(31)(g)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(x))

F320 S. 52(14A) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(31)(h)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2 (with sch. 2 para. 1(x))

F321 Word in s. 52(15) substituted (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(31)(i)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c)

Marginal Citations

M15 1880 c. 47.

Provisions relating to Land Court

[F322 52A Appeal to Land Court: general

(1) An appeal shall lie to the Land Court, on one or more of the grounds mentioned in subsection (3) below, against—

(a) any decision, determination or direction of; or

(b) the imposition of a condition by,

the Commission on an application made to them under this Act.

(2) The appeal—

(a) is to be made[F323]..., at the instance of the applicant or of any person with an interest in the application; and

(b) must be brought within 42 days after the Commission dispose of the application.

(3) The grounds are that the Commission, in reaching their decision or as the case may be in determining as they did, in making their direction or in imposing the condition in question—

(a) erred on a point of law;

(b) made a finding as to a fact material to the decision, determination, direction or imposition but did not have sufficient evidence on which to base that finding;

(c) acted contrary to natural justice,

(d) took into account certain irrelevant or immaterial considerations;

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(e) failed to take into account certain relevant or material considerations;

(f) exercised their discretion in an unreasonable manner.

(4) In an appeal under subsection (1) above the Court may—

(a) confirm the decision, determination, direction or imposition;

(b) direct the Commission to come to a different decision, make a different determination or direction or impose a different (or no) condition; or

(c) remit the case to the Commission without so directing them.

F324 **[** The Court may, if it considers it appropriate in consequence of any decision on an (4A) appeal under subsection (1), order the Keeper to rectify the Crofting Register.**]**

F325 **[** The Commission may be a party to any appeal to the Land Court under this Act or (4B) in any proceedings on a question coming before that Court on an application under section 53(1) of this Act.**]**

F326 (5) . . . . . .

(6) Subsections (1), (2) and (4) above do not apply where an appeal lies under section F327 ... 25(8) or 38A of this Act.

F328 (7)**]** . . . . . .

Textual Amendments

F322 S. 52A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 33(1)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F323 Words in s. 52A(2)(a) repealed (1.2.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 50(1)(c)**, 57(2) (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with arts. 4, 5(3))

F324 S. 52A(4A) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(32)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

F325 S. 52A(4B) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 50(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F326 S. 52A(5) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(32)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F327 Word in s. 52A(6) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(32)(c)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F328 S. 52A(7) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(32)(d)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

Modifications etc. (not altering text)

C3 S. 52A applied (with modifications) (30.10.2012 for specified purposes, 30.11.2012 in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 32(10)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(a)(b)(2), sch. 1 Pts. 1, 2

C4 S. 52A applied (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 7(6)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

C5 S. 52A applied (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 26(7)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

C6 S. 52A applied (with modifications) (31.7.2013) by Crofting (Amendment) (Scotland) Act 2013 (asp 10), **s. 4(1)**(2), 6

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

53 Jurisdictional provisions.

(1) Without prejudice to any jurisdiction exercisable by it under any enactment, the Land Court shall have power to determine, either on the application of any person having an interest or on a reference made to it by the Commission, any question of fact or law arising under this Act including, without prejudice to the said generality—

(a) the question whether any holding is a croft;

(b) the question who is the tenant of any croft;

(c) any question as to the boundaries of a croft or of any pasture or grazing land a right in which forms part of a croft;

(d) the question whether any land is or forms part of a common pasture or grazing to which this Act applies:

[F329(e) the question—

(i) whether any of the grounds mentioned in subsection (2A) of section 50 of this Act as grounds for refusing consent applied for under subsection (1) of that section is made out; or

(ii) whether conditions subject to which any such consent is given are reasonable**]**

Provided that the Land Court shall not have power under this subsection to determine—

(i) any question of a kind reserved by this Act to a court other than the Land Court;

[F330(ia) any question that may be raised under section 14(1) of the 2010 Act (including a question that could have been raised under that section had an application been made before the end of the period mentioned in section 12(5) of that Act);**]**

[F331(ii) (other than on a reference made to it by the Commission) any question arising by virtue of an application to the Commission under this Act; or

(iii) any other question (other than a question of law), if it is a question decided by the Scottish Ministers or the Commission in the discharge of any of their respective functions under this Act.**]**

(2) The Land Court shall cause intimation to be made to the Commission of its determination on any question coming before it under **[**F332subsection (1) above**]** .

[F333(3) The Court may, if it considers it appropriate in consequence of any determination under subsection (1), order the Keeper to rectify the Crofting Register.**]**

Textual Amendments

F329 S. 53(1)(e) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 33(2)(a)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F330 Words in s. 53(1) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(33)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

F331 Words in s. 53 substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 33(2)(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F332 Words in s. 53(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 33(2)(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F333 S. 53(3) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(33)(b)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

[F334 53A Extent of boundaries

Where an application is made to the Land Court to determine a question under section 53(1)(c) of this Act and the evidence available to the Court is insufficient to enable any boundary to be clearly determined, the Court shall declare the boundary to be that which in all the circumstances it considers appropriate.**]**

Textual Amendments

F334 S. 53A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 18**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

[F335 53B Access to croft

(1) Where a crofter considers that—

(a) he requires access from a public road to his croft; and

(b) it would be reasonable for such access to be taken by a route lying wholly over land owned by his landlord,

the crofter may make application to the Land Court for an order under subsection (2) below.

(2) On an application under subsection (1) above, the Land Court shall make such order as it considers appropriate in all the circumstances, and the order may in particular make provision—

(a) specifying an access route from the public road to the croft lying wholly over land owned by the landlord;

(b) as to the arrangements under which the crofter may carry out works to construct or improve a road over the access route;

(c) as to the conditions subject to which access may be exercised, including conditions as to what types of vehicle may be taken along the access route;

(d) requiring the crofter to indemnify the landlord in respect of any claim for compensation made against the landlord under paragraph 11 of Schedule 2 to this Act in consequence of works such as are described in paragraph (b) above;

(e) requiring the crofter to make a payment to the landlord in respect of expenses incurred by the landlord in connection with matters which are the subject of the application.

(3) Any order under subsection (2) above shall have effect as if the matters for which the order makes provision had been the subject of an agreement between the crofter and the landlord.

(4) The right of a crofter to make application to the Land Court under subsection (1) above shall be without prejudice to any other right which that crofter may have in connection with access to his croft.**]**

Textual Amendments

F335 S. 53B inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 19**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

[F336]54 Crofters Holdings Book.

. . . . . .

Textual Amendments

F336 S. 54 repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 2** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Miscellaneous and General Provisions

55 Service of notices

(1) Any notice for the purposes of this Act shall be in writing, and any notice or other document required or authorised by or under this Act to be given to or served on any person shall be duly given or served if it is delivered to him or left at his proper address or sent to him by post.

[[F337](1A) A notice or other document is sent by post under this section if—

(a) in the case of an individual, it is sent by registered post or the recorded delivery service, addressed to that person at that person's usual or last known address or, where the person has given an address for service, at the address so given;

(b) in any other case, by sending it by registered post or the recorded delivery service, addressed to that person at the person's registered or principal office.**]**

(2) Where any notice or other document is to be given to or served on a person as being the person having any interest in land and it is not practicable after reasonable inquiry to ascertain his name or address, the notice or document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it) and delivering the notice or document to some responsible person on the land or by affixing it, or a copy of it, to some conspicuous object on the land.

Textual Amendments

F337 S. 55(1A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(18)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

[F338]55A Public notification

(1) For the purposes of this Act, public notification shall be given by publishing or causing to be published a notice in appropriate form in one or more newspapers circulating in the district in which the croft or, as the case may be, common grazing to which the application relates (or in the case of public notification under section 50B(4)(a)(ii) the regulations relate) is situated.

(2) A notice is in appropriate form if—

(a) its form and content comply, or do so as far as is reasonably practicable, with the form and content specified by the Commission for an application of that type (or as the case may be for regulations under section 49(2)(g) of this Act); and

(b) it specifies—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(i) the purpose of the application to which it relates (or in the case of regulations the matters which are required to be set out in it by virtue of section 50B(4)(a)(i) of this Act);

(ii) a description of the croft land or, as the case may be, common grazing to which the application relates (or regulations relate); and

(iii) in the case of an application, the period during which, and manner in which, objections may be made.

(3) Where, in accordance with the provisions of this Act, a person giving public notification is also required to serve notice on a landlord, tenant or occupier of croft land to which the application relates or, if applicable, on the owner of, or a crofter sharing in, the common grazing, such notice shall be in the form required by subsection (2) above.**]**

Textual Amendments

F338 S. 55A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 35**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

56 Provisions as to entry and inspection.

(1) Any person authorised by the Secretary of State or the Commission in that behalf shall have power at all reasonable times to enter on and inspect any land for the purpose of determining whether, and if so in what manner, any of the powers conferred on the Secretary of State or the Commission by this Act **[**[F339]or, in the case of the Commission, by the 2010 Act**]** are to be exercised in relation to the land, or whether, and if so in what manner, any direction given under any such power has been complied with.

(2) Any person authorised as aforesaid who proposes to exercise any power of entry or inspection conferred by this Act shall if so required produce some duly authenticated document showing his authority to exercise the power.

(3) Admission to any land shall not be demanded as of right in the exercise of any such power as aforesaid unless in the case of land being used for residential purposes 7 days, or in the case of any other land 24 hours, notice of the intended entry has been given to the occupier of the land.

(4) Any person who obstructs any person authorised by the Secretary of State or the Commission exercising any such power as aforesaid 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.

Textual Amendments

F339 Words in s. 56(1) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(34)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

Modifications etc. (not altering text)

C7 S. 56(2)-(4) applied (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 13(4)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

57 Provisions as to compulsory purchase of land and as to management of land.

(1) Where by virtue of any provision of this Act the Secretary of State is deemed to be authorised to purchase land compulsorily, then in relation to any such compulsory purchase the Lands Clauses Acts and other enactments mentioned in Part I of Schedule 2 to the [M16]Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947, shall be incorporated in accordance with the provisions of the said Part I as if the Secretary of State had been authorised under section 1 of that Act to purchase the land compulsorily; and the [M17]Land Compensation (Scotland) Act 1963 shall have effect in relation to any such compulsory purchase subject to the provisions of Part II of that Schedule, of the proviso to section 23(9) of this Act and of subsection (2) below.

(2) The power conferred by section39 of the Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of section 23(9) or 39(9) or (10) of this Act.

(3) The Secretary of State may manage, farm, sell, let or otherwise deal with or dispose of land acquired by him under this Act in such manner as appears to him expedient for the purpose for which it was acquired.

Marginal Citations
M16 1947 c. 42.
M17 1963 c.51.

58 Provisions as to representations.

(1) Any enactment in this Act providing, in relation to the taking of any action by the Secretary of State, for his taking the action after affording to a person an opportunity of making representations to the Secretary of State shall be construed as a provision that the Secretary of State shall comply with the following requirements.

(2) The Secretary of State shall give notice to the said person specifying the matter under consideration and informing him of the effect of subsection (3) below.

(3) A person to whom notice is given as aforesaid may within the time specified in the notice make representations to the Secretary of State in writing, and, whether or not representations are made to the Secretary of State in writing, may within the time so specified require that an opportunity be afforded to him of being heard by a person appointed by the Secretary of State for the purpose; and, if he so requires, such an opportunity shall be afforded to him and, on the same occasion, to any other person to whom under the enactment referred to in subsection (1) above the Secretary of State is required to afford such an opportunity, and the Secretary of State shall not take action in relation to the matter until he has considered any representations made as aforesaid.

(4) Where any enactment in this Act provides in relation to the taking of any action by the Commission for their taking the action after affording to a person an opportunity of making representations to them, the provisions of this section shall have effect in relation thereto with the substitution for references to the Secretary of State of references to the Commission.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

[F340 58A Obtaining Commission approval or consent

(1) Any requirement, under or by virtue of this Act, to obtain the approval or consent of the Commission, shall (subject to any express provision made by this Act in respect of any category of case) be complied with as follows.

(2) The application for approval or consent must—

(a) be in such form; and

(b) be accompanied by such documents and fee,

as the Commission shall specify; and the Commission may make different provision for different categories of case.

(3) **[**F341 Subject to subsection (5B),**]** The person making the application shall—

(a) forthwith give public notification of it; and

(b) if he is not the landlord (or, where the land to which the application relates is, or is part of, a common grazing, not the owner) give written notification of it to the landlord (or to the owner).

(4) Within 28 days after public notification of an application made in compliance with subsection (2) above—

(a) the landlord (or where the land to which the application relates is, or is part of, a common grazing, the owner);

(b) any member of the crofting community in the locality of that land (including, where that land is, or is part of, a common grazing, the grazings committee or any crofter who shares in the grazing); F342...

(c) any other person if he is identified for the purposes of this subsection by the provision which imposes the requirement mentioned in subsection (1) above**[**F343; or

(d) any other person the Commission consider has a relevant interest in the application,**]**

may submit to the Commission an objection as regards the application, being an objection of the description given in subsection (16) below.

(5) The 28 days mentioned in subsection (4) above include the day on which the notification in question is given.

[F344 (5A) Despite subsection (4), the Commission may accept an objection submitted after the end of the 28-day period if they consider there is a good reason why the objection is late.

(5B) Where the application is an application for consent to divide a croft under section 9 made by an executor under section 10(4A)—

(a) subsections (3) to (5A);

(b) in subsection (6), the words "When those 28 days have elapsed";

(c) in subsection (12A), paragraph (b); and

(d) subsections (16) and (17),

do not apply.**]**

(6) When those 28 days have elapsed the Commission **[**F345 must, subject to subsection (6A), decide the application by**]** —

[F346 (a) granting it;

(b) granting it subject to conditions; or

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(c) refusing it.**]**

[Where—

F347(6A)
(a) the application for consent to divide the croft is made by an executor under section 10(4A); and
(b) it relates to a bequest of the tenancy of the part of the croft comprising the site of the dwelling-house on or pertaining to the croft to one natural person and the tenancy of the remaining part to one other such person,

the Commission must grant the application (whether or not subject to conditions).**]**

F348(7) In considering their decision on the application, the Commission must have regard to the following—
(a) in the case of an application relating to a croft—
(i) whether any person is or will be ordinarily resident on, or within 32 kilometres of, the croft;
(ii) whether the croft is being or will be cultivated or put to such other purposeful use as is consented to under section 5C(4);
(b) the interests of the estate which comprises the land to which the application relates;
(c) the interests of the crofting community in the locality of that land;
(d) the sustainable development of that crofting community;
(e) the interests of the public at large;
(f) any objections received under subsection (4) or (5A);
(g) any plan of the Commission approved and published under section 2C;
(h) any other matter which the Commission consider relevant.

F348(8) . . . . . .

F348(9) . . . . . .

F348(10) . . . . . .

(11) Subject to any other provision of this Act as to procedure, the Commission may determine by such procedure and arrangements (including arrangements as to delegation and the powers and duties of persons delegated) as they consider appropriate whether or not to grant the approval or consent applied for **[**F349or grant it subject to conditions**]** .

(12) Where the Commission grant the approval or consent applied for they shall enter the proposal or the matter consented to (and if and in so far as they think fit any information obtained by them by virtue of subsection (2) above and pertaining to that proposal or matter) in the Register of Crofts F350....

[The Commission must, before the expiry of the period of 21 days beginning with the F351(12A) day on which the decision under subsection (6) is taken, give notice of that decision—
(a) to the applicant;
(b) to any person who objected under subsection (4) or (5A); and
(c) where appropriate and in so far as not already given notice under paragraph (a) or (b), to—
(i) the crofter;
(ii) the owner-occupier crofter;
(iii) the landlord; and

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(iv) as the case may be, the grazings committee.**]**

F352(13) . . . . . .

F352(14) . . . . . .

F352(15) . . . . . .

(16) The description is that the objection is made in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape).

(17) For the purposes of subsection (16) above (and without prejudice to the generality of that subsection), an objection is to be treated as made in writing where it is—

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.**]**

Textual Amendments

F340 S. 58A inserted (28.1.2008) by virtue of Crofting Reform etc. Act 2007 (asp 7), **ss. 3**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

F341 Words in s. 58A(3) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F342 Word in s. 58A(4) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(3)(a)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F343 S. 58A(4)(d) and word inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(3)(b)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F344 S. 58A(5A)(5B) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(4)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F345 Words in s. 58A(6) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(5)(a)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F346 Ss. 58A(6)(a)-(c) substituted for s. 58A(6)(a) (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(5)(b)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F347 S. 58A(6A) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(6)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F348 S. 58A(7) substituted for s. 58A(7)-(10) (1.10.2011 for specified purposes, 1.4.2012 in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), ss. 48(7), 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4); S.S.I. 2011/334, art. 3, sch. Pts. 2, (with arts. 4, 5(3))

F349 Words in s. 58A(11) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(8)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F350 Words in s. 58A(12) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(9)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F351 S. 58A(12A) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(10)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F352 Ss. 58A(13)-(15) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(11)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

Modifications etc. (not altering text)

C8 S. 58A applied by 1964 c. 41, s. 16A (as inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 16**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

[F353 58B Variation of conditions on approval or consent

(1) This section applies where the Commission grant, subject to conditions, an application under section 58A for their approval or consent.

(2) The Commission may, on an application to them by the person who applied for the approval or consent (the "original applicant"), modify the conditions imposed by—

(a) varying a condition;

(b) removing a condition;

(c) adding a condition,

as they consider appropriate.

(3) Where the Commission so modify conditions they must, before the expiry of the period of 14 days beginning with the day on which they do so, give notice of their decision to—

(a) the original applicant;

(b) any other person who was given written notification under section 58A(12A) of the decision to grant the approval or consent subject to conditions; and

(c) any other person the Commission consider has a relevant interest.

(4) Subject to subsection (5), subsections (2) to (5A), (16) and (17) of section 58A apply to an application under subsection (2) of this section as they apply to an application under subsection (1) of that section.

(5) Where the original applicant is an executor who applied under section 10(4A) for consent to divide a croft under section 9, subsections (3) to (5A), (16) and (17) do not apply.**]**

Textual Amendments

F353 S. 58B inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 48(12)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

59 Financial provisions.

(1) The expenses of the Commission shall be defrayed by the Secretary of State.

(2) All expenses incurred by the Secretary of State under the provisions of this Act shall be defrayed out of moneys provided by Parliament.

(3) All sums received by the Secretary of State under the provisions of this Act shall be paid into the Consolidated Fund.

[F354 59A Equal opportunities

(1) The Commission shall discharge their functions in a manner which encourages equal opportunities and, in particular, the observance of the equal opportunities requirements.

(2) In subsection (1) above, "equal opportunities" and "equal opportunity requirements" have the same meanings as in Section L2 of Part II of Schedule 5 to the Scotland Act 1998 (c. 46).**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Textual Amendments

F354 S. 59A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 2**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

[F355 60 Regulations and orders

(1) Any power conferred by this Act on the Scottish Ministers to make regulations or orders is exercisable by statutory instrument.

(2) Subject to subsection (3), a statutory instrument containing such regulations or such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(3) No statutory instrument containing—

(a) an order under—

(i) section 2A(1);

(ii) section 5B(6);

(iii) section 19C(8);

(iv) paragraph 3(6) of schedule 1;

(b) regulations under paragraph 7(1) of schedule 1,

may be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.**]**

Textual Amendments

F355 S. 60 substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(35)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

61 Interpretation.

(1) In this Act, unless the context otherwise requires—

"the M18 1955 Act" means the Crofters (Scotland) Act 1955;

"the M19 1964 Act" means the Succession (Scotland) Act 1964;

[F356 "the 1997 Act" means the Town and Country Planning (Scotland) Act 1997;**]**

[F357 " the 2010 Act " means the Crofting Reform (Scotland) Act 2010 (asp 14);**]**

"authority possessing compulsory purchase powers" has the same meaning as in the 1972 Act;

"the Commission" means the **[**F358 Crofting**]** Commission;

"cottar" has the meaning assigned by section 12(5) of this Act;

[F359 " croft " —

(a) in relation to a croft other than one registered in the Crofting Register, has the meaning given by section 3;

(b) in relation to a croft registered in that register, has the meaning given by section 3ZA(2)(a);

" crofter " —

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(a) in relation to a croft other than one registered in the Crofting Register, has the meaning given by section 3;

(b) in relation to a croft registered in that register, has the meaning given by section 3ZA(2)(c);**]**

[F360" crofting community " means all the persons who (either or both)—

(a) occupy crofts within a township which consists of two or more crofts registered with the Crofters Commission;

(b) hold shares in a common grazing associated with that township;**]**

"crofting counties" means the former counties of Argyll, Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland and Zetland;

"croft land" has the meaning assigned to it by section 12(3) of this Act;

[F361" cultivate " has the meaning given by section 5C(8);**]**

[F361" date of registration " (other than in section 3) is to be construed in accordance with section 8(5) of the 2010 Act;**]**

"development" has the same meaning as in **[**F362section 26 of the 1997 Act**]**, except that it includes the operations and uses of land referred to in paragraphs (a) and (e) of subsection (2) of that section;

[F363" enactment " includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;**]**

[F364" first registered croft " means a croft mentioned in section 5(2) of the 2010 Act;

" first registration " , in relation to an unregistered croft or unregistered owner-occupied croft, means the registration of the croft or owner-occupied croft in the Crofting Register;**]**

"fixed equipment" has the like meaning as in the M20Agricultural Holdings (Scotland) Act 1991;

"functions" includes powers and duties;

[F365" Keeper " means the Keeper of the Registers of Scotland; **]**

"Land Court" means the Scottish Land Court;

"landlord" means—

(a) in relation to a croft **[**F366other than one registered in the Crofting Register**]** , any person for the time being entitled to receive the rents and profits, or to take possession of, the croft;

(aa) **[**F367in the case of a croft registered in that register, the person for the time being entered in the registration schedule of the croft as the landlord of it;**]**

(b) in relation to the site of the dwelling-house on or pertaining to the subject of a cottar—

(i) where the cottar is the tenant of the subject, any person for the time being entitled to receive the rents and profits, or to take possession of the site, and

(ii) where the cottar is the occupier of the subject who pays no rent, the owner thereof;

[F368" local authority " means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39);**]**

"National Trust for Scotland" means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the M21National Trust for Scotland Order Confirmation Act 1935;

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

[[F369]" owner-occupied croft" and "owner-occupier's croft " have the meanings given by section 19B(5);

"owner-occupier crofter" is to be construed in accordance with section 19B(1) to (4);**]**

"permanent improvement" shall be construed in accordance with section 30(7) of this Act;

"prescribed" means prescibed by regulations made by the Secretary of State;

"predecessors in the tenancy" means in relation to a crofter the persons who before him have been tenants of the croft since it was last vacant;

[[F363]" public notification " has the meaning given by section 55A of this Act;**]**

[[F370]" purposeful use " has the meaning given by section 5C(8);**]**

[[F370]" registered " , in relation to a croft, an owner-occupied croft or a common grazing, means registered in the Crofting Register; and "unregistered" and other cognate expressions are to be construed accordingly;**]**

[[F370]" registration schedule " means the registration schedule of the croft made up and maintained under section 11(1) of the 2010 Act;**]**

"statutory successor" means any person who under this Act has succeeded or may succeed to a croft whether as a person to whom the tenancy of the croft has been transferred in pursuance of section 16(2) of the 1964 Act or as the executor, heir-at-law, legatee or assignee of his immediate predecessor being a crofter in occupation of the croft;

"the site of the dwelling-house" has the meaning assigned to it by section 12(4) of this Act;

"Whitsunday" and "Martinmas" mean respectively 28th May and 28th November.

[[F363]" woodlands " includes woodlands created by planned natural regeneration (as defined by section 50A(8) of this Act)**]**

(2) Any reference in this Act to a member of a person's or crofter's or former crofter's or deceased crofter's family is a reference to **[**[F371]the individual in question's—

(a) spouse or civil partner (or cohabitant provided that the individual has no spouse or civil partner and that the cohabitation has included cohabitation for at least two years in a dwelling-house on or pertaining to the croft);

(b) sibling;

(c) sibling's spouse or civil partner;

(d) spouse's or civil partner's sibling;

(e) father;

(f) mother;

(g) son;

(h) daughter;

(i) son's or daughter's spouse or civil partner;

(j) grandchild;

(k) grandchild's spouse or civil partner;

(l) aunt;

(m) uncle;

(n) nephew; or

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(o) niece.**]**

[[F372](3) In subsection (2)(a) above, and in the definition of "son" or "daughter" in subsection (4) below, the reference to an individual's cohabitant is to a person, whether or not of the same sex as the individual, who lives with the individual as if—

(a) in a married relationship; or

(b) in civil partnership.

(4) In subsection (2) above—

"sibling" includes a sibling by virtue only of adoption, marriage or civil partnership and a sibling of the half blood;

"son", "daughter" or "grandchild" includes a person so related by virtue only of adoption, marriage or civil partnership; and

"son" or "daughter" includes a son, or as the case may be a daughter, of the individual's cohabitant provided that such son or daughter resides with the individual and that such residence has included residence for at least two years in a dwelling-house on or pertaining to the croft.**]**

Textual Amendments

F356 Definition substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 55(3)(a)**.

F357 Words in s. 61(1) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(a)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F358 Words in s. 61(1) substituted (1.4.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 2 (with art. 4)

F359 Words in s. 61(1) substituted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(c)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

F360 Words in s. 61(1) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 37**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F361 Words in s. 61(1) inserted (1.10.2011 for specified purposes) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(d)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F362 Words in s. 61(1) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 55(3)(b)**.

F363 Words in s. 61(1) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(19)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F364 Words in s. 61(1) 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(36)(e)** (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)

F365 Words in s. 61(1) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(f)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

F366 Words in s. 61(1) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(g)(i)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

F367 Words in s. 61(1) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(g)(ii)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

F368 Words in s. 61(1) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(h)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F369 Words in s. 61(1) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(i)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

F370 Words in s. 61(1) inserted (1.10.2011 for specified purposes) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(36)(j)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F371 Words in s. 61(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 36(a)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

F372 S. 61(3)(4) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 36(b)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

Marginal Citations

M18 1955 c. 21.
M19 1964 c. 41.
M20 1991 c. 55.
M21 1935 c. iii.

62 Application of Act to Crown.

This Act shall apply to land an interest in which belongs to Her Majesty in right of the Crown and land an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, but in its application to any land an interest in which belongs or is held as aforesaid this Act shall have effect subject to such modifications as may be prescribed.

63 Transitional provisions and savings, and repeals.

(1) The transitional provisions and savings contained in Schedule 6 to this Act shall have effect.

(2) The enactments—

(a) specified in Part I of Schedule 7 to this Act so far as they apply in the crofting counties;

(b) specified in Part II of that Schedule,

are hereby repealed to the extent specified in column 3 of that Schedule.

64 Short title, commencement and extent.

(1) This Act may be cited as the Crofters (Scotland) Act 1993.

(2) Subject to section 28(17) of this Act, this Act shall come into operation on the expiration of 2 months commencing with the date on which it is passed.

(3) This Act extends to Scotland only.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

SCHEDULES

[F373SCHEDULE 1

(introduced by section 1(6))

THE CROFTING COMMISSION

Textual Amendments

F373 Sch. 1 substituted (1.10.2011 for specified purposes, 1.4.2012 in force in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 1** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with arts. 45(1)8); S.S.I. 2011/334, art. 3, sch. Pt. 2 (with arts. 45(3))

Status

1 (1) The Commission are a body corporate.

(2) The Commission are not to be regarded as a servant of the Crown, nor are they to be regarded as having any status, privilege or immunity of the Crown.

(3) The Commission's members and employees are not to be regarded as civil servants.

(4) The Commission's property is not to be regarded as property of, or held on behalf of, the Crown.

General powers

2 (1) The Commission may do anything which they consider is necessary or expedient for the purpose of exercising or in connection with their functions.

(2) In particular, the Commission may—

(a) co-operate with any person in the exercise of the Commission's functions;

(b) with the approval of the Scottish Ministers, acquire and dispose of land and other property;

(c) enter into contracts;

(d) charge, in respect of such of their functions as may be prescribed by the Scottish Ministers, such reasonable amounts as may be so prescribed.

Membership

3 (1) Subject to sub-paragraph (2), the Commission are to consist of no fewer than five and no more than nine members as follows—

(a) no fewer than two persons appointed by the Scottish Ministers (“appointed members”); and

(b) no more than six persons elected by virtue of paragraph 7 (“elected members”).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(2) The majority of members are to be elected members unless, by virtue of the appointment of a person by the Scottish Ministers under paragraph 6(3) or 9(3), such a majority cannot be maintained.

(3) The Scottish Ministers must select a member to chair the Commission (the "convener").

(4) The Scottish Ministers may delegate to the Commission the duty to select a member to chair the Commission.

(5) A delegation under sub-paragraph (4) may be varied or revoked at any time.

(6) The Scottish Ministers may, by order, modify sub-paragraph (1) above to alter—

(a) the number of members;

(b) the number of appointed members;

(c) the number of elected members,

but such an order may not contain provision to the effect that the majority of members would not be elected members.

Appointed members: eligibility

4 (1) In appointing members of the Commission, the Scottish Ministers must—

(a) ensure—

(i) that each person appointed has knowledge of crofting;

(ii) where sub-paragraph (2) applies, that at least one person appointed can speak the Gaelic language; and

(iii) where sub-paragraph (3) applies, that at least one person appointed appears to Ministers to represent the interests of landlords of crofts; and

(b) be satisfied that no person appointed has any financial or other interest that would be likely to affect prejudicially the exercise by that person of the functions of a member.

(2) This sub-paragraph applies where none of the elected members can speak the Gaelic language.

(3) This sub-paragraph applies where the Scottish Ministers consider that none of the elected members represents the interests of landlords of crofts.

(4) The fact that a person is—

(a) a crofter;

(b) a landlord of a croft;

(c) an owner-occupier of a croft;

(d) a cottar; or

(e) a member of the family of any such person,

does not of itself constitute an interest mentioned in sub-paragraph (1)(b).

(5) No person may be appointed as a member of the Commission if that person is, or has at any time during the previous year been, a member of—

(a) the House of Commons;

(b) the Scottish Parliament;

(c) the European Parliament.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Appointed members: terms of appointment

5 Subject to this schedule, an appointed member holds and vacates office on such terms and conditions as the Scottish Ministers determine.

Resignation and cessation of membership

6 (1) A person may resign office as a member of the Commission at any time by notice in writing to the Scottish Ministers.

(2) A person who ceases to be a member of the Commission (other than by virtue of being removed under paragraph 9) is eligible to be a member of the Commission again (whether by re-appointment or otherwise)

(3) Where—

(a) an elected member resigns office under sub-paragraph (1) or otherwise ceases to be a member of the Commission (other than by virtue of being removed under paragraph 9); and

(b) is not replaced by a person such as is mentioned in sub-paragraph (4) (whether because of the person's refusal to accept office as a member or otherwise),

the Scottish Ministers may appoint (in addition to any person appointed under paragraph 3) a person to be a member of the Commission.

(4) The person referred to in sub-paragraph (3)(b) is a person who—

(a) was a candidate in the election by virtue of which the elected member mentioned in sub-paragraph (3)(a) held office as a member;

(b) polled, in that election, fewer votes than the elected member so mentioned; and

(c) by virtue of regulations made under paragraph 7, may hold office as a member of the Commission.

Elected members: regulations

7 (1) The Scottish Ministers may, by regulations, make provision for or in connection with the election of persons as members of the Commission.

(2) Without prejudice to the generality of sub-paragraph (1), the regulations may, in particular, make provision relating to—

(a) the voting system to be used for such elections;

(b) the frequency and timing of such elections;

(c) the conduct of such elections;

(d) offences relating to such elections;

(e) the constituencies (including boundaries) in which such elections may be held

(f) persons who are eligible to vote in such elections (including by reference to the person's age);

(g) the appointment of an individual to act as the returning officer for each constituency;

(h) such an individual's—

(i) functions;

(ii) fees and expenses;

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(iii) tenure and vacation of office;

(i) subject to sub-paragraph (5), persons who may, and may not, be candidates in elections such as are mentioned in sub-paragraph (1) (including by reference to the person's age);

(j) the number of members of the Commission who may be returned from each constituency;

(k) vacancies amongst elected members, including the circumstances in which a person who polled fewer votes in such an election than the person who polled most votes may hold office as a member of the Commission.

(3) Regulations under sub-paragraph (1) may not make provision creating an offence such as is mentioned in sub-paragraph (2)(d) that is punishable—

(a) on conviction on indictment, with imprisonment for a term exceeding 2 years;

(b) on summary conviction, with—

(i) imprisonment for a term exceeding 12 months; or

(ii) a fine exceeding level 5 on the standard scale.

(4) In the case of an offence which is triable either on indictment or summarily, the reference in sub-paragraph (3)(b)(ii) to a fine exceeding level 5 on the standard scale is to be construed as a reference to the statutory maximum.

(5) In making provision such as is mentioned in sub-paragraph (2)(i), the regulations must provide that the persons who may be candidates in elections such as are mentioned in sub-paragraph (1) may include persons who

(a) are aged 16 or over; and

(b) have been nominated by a person eligible to vote in such elections.

(6) Before making regulations under sub-paragraph (1), the Scottish Ministers must consult such persons or bodies as they think appropriate on—

(a) the constituency boundaries to be used; and

(b) the persons who are eligible to vote,

in elections such as are mentioned in sub-paragraph (1).

Remuneration, allowances and pensions

8 (1) The Scottish Ministers must pay to the members of the Commission such remuneration and allowances as Ministers may determine.

(2) The Scottish Ministers may—

(a) pay (or make arrangements for the payment of);

(b) make payments towards the provision of; or

(c) provide and maintain schemes (whether contributory or not) for the payment of,

such pensions, allowances and gratuities to or in respect of such members and former members of the Commission as Ministers may determine.

(3) The reference in sub-paragraph (2) to pensions, allowances and gratuities includes pensions, allowances and gratuities paid by way of compensation for loss of office.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Removal of members

9 (1) The Scottish Ministers may remove a member of the Commission from office, by giving notice in writing to the member, if satisfied that the member—

(a) is insolvent;

(b) has been convicted of a criminal offence in relation to which the member has been sentenced to imprisonment for a period of 3 months or more;

(c) is incapacitated by physical illness or mental disorder;

(d) has been absent from meetings of the Commission for a period exceeding 6 months without the permission of the convener;

(e) is otherwise unable or unfit to exercise the functions of a member or is unsuitable to continue as a member.

(2) In sub-paragraph (1)(a), a member is insolvent when—

(a) the member's estate is sequestrated;

(b) the member is adjudged bankrupt;

(c) a voluntary arrangement proposed by the member is approved;

(d) the member enters into a debt arrangement programme under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) as the debtor;

(e) the member grants a trust deed for creditors.

(3) Where—

(a) an elected member is removed from office under sub-paragraph (1); and

(b) is not replaced by a person such as is mentioned in sub-paragraph (4) (whether because of the person's refusal to accept office as a member or otherwise),

the Scottish Ministers may appoint (in addition to any person appointed under paragraph 3) a person to be a member of the Commission.

(4) The person referred to in sub-paragraph (3)(b) is a person who—

(a) was a candidate in the election by virtue of which the removed member held office as a member;

(b) polled, in that election, fewer votes than the removed member; and

(c) by virtue of regulations made under paragraph 7, may hold office as a member of the Commission.

Chief executive, staff and employees

10 (1) The Scottish Ministers must, after consultation with the convener of the Commission, appoint a chief executive of the Commission on such terms and conditions as Ministers may determine.

(2) The Scottish Ministers may provide the services of such staff to the Commission as the Commission consider appropriate.

(3) The Commission may appoint such employees as the Commission consider appropriate.

(4) The Scottish Ministers may give directions to the Commission as to the appointment of employees under sub-paragraph (3).

(5) Such directions may in particular relate to

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(a) the number of appointments;
(b) the terms and conditions of employment.

(6) The Commission must comply with any directions given under sub-paragraph (4).

(7) The Commission may, with the approval of the Scottish Ministers—
(a) pay (or make arrangements for the payment of);
(b) make payments towards the provision of; or
(c) provide and maintain schemes (whether contributory or not) for the payment of,

such pensions, allowances and gratuities to or in respect of such of their employees, or former employees, as the Commission may determine.

(8) The reference in sub-paragraph (7) to pensions, allowances and gratuities includes pensions, allowances and gratuities paid by way of compensation for loss of office.

Quorum

11 (1) The quorum of the Commission is five members.

(2) Where there are three or more elected members, the quorum must include no fewer than three such members.

Committees

12 (1) The Commission must establish—
(a) an audit committee; and
(b) such other committees as they consider appropriate.

(2) The audit committee and any other committee of the Commission must comply with any directions given to it by the Commission.

(3) The Commission may appoint as members of any of their committees persons who are not members of the Commission.

(4) But no committee established under sub-paragraph (1) may consist entirely of such persons.

(5) The Commission must pay to a person appointed under sub-paragraph (3) such remuneration and allowances as the Scottish Ministers may determine.

Procedure

13 (1) The Commission may regulate—
(a) their own procedure; and
(b) the procedure of any of their committees (including any quorum).

(2) The convener must, if present, chair meetings of the Commission and any of their committees.

(3) If the convener is not available to chair a meeting of the Commission or a committee, the convener is to appoint another member of the Commission to chair the meeting.

(4) The person chairing a meeting of the Commission or any committee has a casting vote.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(5) The Commission must keep a record of their and their committees' meetings and decisions.

(6) The validity of any proceedings of the Commission or of any of their committees is not affected by any vacancy in membership nor by any defect in the appointment of a member.

Members' interests

14 (1) A member of the Commission or any other person who is in any way directly or indirectly interested in any matter brought up for consideration at a meeting of the Commission or of any committee of the Commission must disclose the nature of that interest to the meeting.

(2) Such a disclosure must be recorded in the minutes of the meeting.

(3) A member or other person making such a disclosure must not take part in any deliberation or decision of the Commission or of any committee of the Commission with respect to the matter to which the disclosure relates.

Delegation of powers

15 (1) The Commission may authorise—

(a) any of their members;
(b) any of their committees;
(c) their chief executive;
(d) any person whose services are provided to them by the Scottish Ministers;
(e) any of their employees,

to exercise such of the Commission's functions (and to such extent) as they may determine.

(2) Sub-paragraph (1) does not affect the responsibility of the Commission for the exercise of their functions.

Local assessors

16 (1) The Commission may appoint a panel of suitable persons (“assessors”) to act, when required to do so by the Commission, as assessors for the purpose of assisting the Commission in the local execution of their functions under this Act.

(2) The Commission must, before exercising their power under sub-paragraph (1), publish details of—

(a) the methods to be used for the appointment of assessors; and
(b) the functions to be exercised by assessors.

(3) In exercising their power under sub-paragraph (1), the Commission must—

(a) provide information to crofting communities about—
(i) the appointment of assessors; and
(ii) the functions that assessors exercise; and
(b) keep under review—
(i) the methods to be used for the appointment of assessors; and
(ii) the functions to be exercised by assessors.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(4) Assessors must be ordinarily resident in the crofting counties or in an area designated under section 3A(1)(b) of this Act.

(5) The Commission may make payments to assessors in respect of any—

(a) loss of earnings;

(b) expenses (including travelling and subsistence expenses),

necessarily suffered or incurred by them for the purpose of enabling them to exercise their functions as such assessors.

Location of office

17 The Commission—

(a) must have their principal office premises in the crofting counties;

(b) must not determine where those premises are to be located without that location being approved by the Scottish Ministers; and

(c) must comply with any direction as to the location of those premises given by Ministers.

Finance

18 (1) The Scottish Ministers may—

(a) pay grants;

(b) make loans,

to the Commission of such amounts as Ministers may determine.

(2) Any such grant or loan may be paid or, as the case may be, made, on such terms and subject to such conditions (including, in the case of a loan, conditions as to repayment) as the Scottish Ministers consider appropriate.

(3) The Scottish Ministers may, from time to time after any grant is paid or loan is made, vary the terms and conditions on which it was paid or, as the case may be, made.

Accounts

19 (1) The Commission must—

(a) keep proper accounts and accounting records;

(b) prepare in respect of each financial year a statement of accounts.

(2) The Commission must send the statement of accounts to the Scottish Ministers by such date as Ministers may direct.

(3) The Commission must comply with any other directions which the Scottish Ministers may give them in relation to the matters mentioned in sub-paragraph (1).

(4) The Scottish Ministers must, as soon as reasonably practicable after receiving a statement of accounts from the Commission—

(a) send them to the Auditor General for Scotland for auditing; and

(b) lay the audited statement before the Scottish Parliament.

(5) The Commission must make their audited statement of accounts available so that they may be inspected by any person.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Provision of information to Scottish Ministers

20 The Commission must provide the Scottish Ministers with such information in respect of the exercise, or proposed exercise, of the Commission's functions as the Scottish Ministers may, from time to time, require.

Transfer of property, rights and liabilities

21 (1) Where the Scottish Ministers consider it necessary or expedient to do so to facilitate the exercise of functions by the Commission, they may transfer to the Commission any property, rights and liabilities to which Ministers are entitled or subject.

(2) Property, rights and liabilities may be so transferred to the Commission whether or not they are otherwise capable of being transferred by the Scottish Ministers.**]**

SCHEDULE 2

Section 5.

THE STATUTORY CONDITIONS

1 The crofter shall pay his rent at the terms at which it is due and payable.

2 The crofter shall not, except in accordance with the provisions of this Act, execute any deed purporting to assign his tenancy.

F374 3 . . . . . .

Textual Amendments

F374 Sch. 2 para. 3 repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(37)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F375 3A . . . . . .

Textual Amendments

F375 Sch. 2 para. 3A repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(37)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

F376 3B . . . . . .

Textual Amendments

F376 Sch. 2 para. 3B repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(37)(a)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

4 The crofter shall provide such fixed equipment on his croft as may be necessary to enable him to cultivate the croft.

5 The crofter shall not, to the prejudice of the interest of the landlord, **[**F377 injure the croft—

(a) by allowing the dilapidation of buildings;

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

(b) where the croft is cultivated, by allowing, after relevant notice, the deterioration of the soil; or

(c) where the croft is put to some other purposeful use, by actings prejudicial to that use being actings carried out after relevant notice.**]**

Textual Amendments

F377 Words in Sch. 2 para. 5 substituted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 7(2)(c)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

[F378 5A In sub-paragraphs (b) and (c) of paragraph 5 above, "relevant notice" means notice given by the landlord to the crofter not to do, or not to allow, a particular thing or not to engage in a particular course of conduct (being a thing or course of conduct specified in the notice and relevant to the deterioration or prejudice in question).**]**

Textual Amendments

F378 Sch. 2 para. 5A inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 7(2)(d)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/568, art. 2

6 The crofter shall not sublet his croft or any part thereof otherwise than with the consent in writing of the Commission and in accordance with such conditions (which shall not include conditions relating to rent) as the Commission in giving their consent may impose:

Provided that nothing in this paragraph shall be construed as debarring a crofter from subletting any dwelling-house or other building forming part of his croft to holiday visitors.

[F379 6A The crofter shall be responsible for ensuring, where the croft is sublet, that the subtenant adheres to the statutory conditions.**]**

Textual Amendments

F379 Sch. 2 para. 6A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 7(2)(e)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

7 The crofter shall not, except in accordance with the provisions of this Act, **[**F380 divide**]** his croft.

Textual Amendments

F380 Word in Sch. 2 para. 7 substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 7(2)(f)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

8 The crofter shall not, without the consent in writing of the landlord, erect or suffer to be erected on the croft any dwelling-house otherwise than in substitution for a dwelling-house which at the commencement of this Act was already on the croft:

Provided that, if at the commencement of this Act there was no dwelling-house on the croft, the crofter may erect one dwelling-house thereon.

9 The crofter shall not [F381]... violate any written condition signed by him for the protection of the interest of the landlord or of neighbouring crofters which is legally applicable to the croft and which the Land Court shall find to be reasonable.

Textual Amendments

F381 Word in Sch. 2 para. 9 repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 7(2)(g)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

10 The crofter shall not do any act whereby he becomes apparently insolvent within the meaning of the Bankruptcy (Scotland) Act **[**[F382]2016**]** .

Textual Amendments

F382 Word in Sch. 2 para. 10 substituted (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 8 para. 13** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

11 The crofter shall permit the landlord or any person authorised by the landlord in that behalf to enter upon the croft for the purpose of exercising (subject always to the payment of such compensation as in case of dispute the Land Court may find to be reasonable in respect of any damage done or occasioned thereby) any of the following rights, and shall not obstruct the landlord or any person authorised as aforesaid in the exercise of any of such rights, that is to say—

(a) mining or taking minerals, or digging or searching for minerals;

(b) quarrying or taking stone, marble, gravel, sand, clay, slate or other workable mineral;

(c) using for any estate purpose any springs of water rising on the croft and not required for the use thereof;

(d) cutting or taking timber or peats, excepting timber and other trees planted by the crofter or any of his predecessors in the tenancy, or which may be necessary for ornament or shelter, and excepting also such peats as may be required for the use of the croft;

(e) opening or making roads, fences, drains and water courses;

(f) passing and re-passing to and from the shore of the sea or any loch with or without vehicles for the purpose of exercising any right of property or other right belonging to the landlord;

(g) viewing or examining at reasonable times the state of the croft and all buildings or improvements thereon;

(h) hunting, shooting, fishing or taking game or fish, wild birds or vermin;

but nothing in this paragraph shall be held to preclude the crofter from recovering any compensation for damage by game which is recoverable under section 52 of the [M22]Agricultural Holdings (Scotland) Act 1991 **[**[F383], or by virtue of section 53(3) of the Agricultural Holdings (Scotland) Act 2003 (asp 11)**]** , by a tenant[F384]....

Textual Amendments

F383 Words in Sch. 2 para. 11 inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), s. 95(3)(4), **sch. para. 49(c)(i)** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with sch.)

F384 Words in Sch. 2 para. 11 repealed (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), s. 95(3)(4), **sch. para. 49(c)(ii)** (with s. 95(2)); S.S.I. 2003/548, art. 2(i) (with sch.)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Marginal Citations
M22 1991 c. 55.

[F385 11A Nothing in paragraph 11 above shall be held to allow, or require the crofter to allow, the landlord, or any person authorised by the landlord, to exercise unreasonably a right enjoyed by virtue of that paragraph.**]**

Textual Amendments
F385 Sch. 2 para. 11A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 7(2)(h)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

12 The crofter shall not on his croft, without the consent in writing of the landlord, open any house for the sale of intoxicating liquors.

13 In this Schedule—

F386 …

"game" means deer, hares, rabbits, pheasants, partridges, grouse, blackgame, capercailzie, ptarmigan, woodcock, snipe, wild duck, widgeon and teal.

F386 …

Textual Amendments
F386 Words in Sch. 2 para. 13 repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(37)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

SCHEDULE 3

Section 30(7).

PERMANENT IMPROVEMENTS

1 Dwelling-house.

2 Improvement works carried out in compliance with a notice of a final resolution served under Part IV of the M23 Housing (Scotland) Act 1987.

Marginal Citations
M23 1987 c. 26.

3 Farm offices.

4 Subsoil and other drains.

5 Walls and fences.

6 Deep trenching.

7 Clearing the ground.

8 Planting trees, other than under section 48(4) of this Act.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

9 Making piers or landing stages.

10 Roads practicable for vehicles from the croft to the public road or the sea shore.

11 All other improvements which, in the judgment of the Land Court, will add to the value of the croft as an agricultural subject.

12 Buildings or other structures erected under section 5 of the [M24]Crofters (Scotland) Act 1961 or section 31 of this Act, being buildings or structures which are fixtures on the land, or works executed under the said section 5 or 31.

Marginal Citations

M24 1961 c. 58.

[F387]SCHEDULE 4

Section 38(7).

. . . . . .

Textual Amendments

F387 Sch. 4 repealed (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 20(5)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

SCHEDULE 5

Sections 19(1), 43(4) and (6), 45(2) and 46(3).

PROVISIONS AS TO SECURITY, ETC., OF LOANS

1 The loan shall be secured by a heritable security over the land in favour of the Secretary of State.

2 The loan shall either be repaid by half-yearly instalments of principal with such interest and within such period (not exceeding such period as may be fixed by the Treasury) from the date of the loan, or at such date thereafter not exceeding 18 months as may be agreed on, or shall be repaid with such interest and within such period by a terminable annuity payable by half-yearly instalments.

3 The amount for the time being unpaid may at any time be discharged, and any such terminable annuity may at any time be redeemed in accordance with tables fixed by the Secretary of State.

4 A certificate by the Secretary of State that the whole of the loan has been repaid or that such terminable annuity has been redeemed shall, without any other instrument, operate as a discharge of the loan or extinction of the terminable annuity, as the case may be, and the recording of such certificate in the Register of Sasines or the registration of the certificate in the Land Register of Scotland shall be equivalent to the recording or the registration of a discharge of the said heritable security.

5 The Secretary of State shall cause to be prepared and duly recorded all documents necessary for securing the payment of any loan over land made by him, and shall

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

include in the loan the cost so incurred, or to be incurred, in accordance with scales set forth in tables fixed by the Secretary of State.

SCHEDULE 6

Section 63(1).

TRANSITIONAL PROVISIONS AND SAVINGS

1 In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.

2 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

3 Any reference in any enactment or document, whether express or implied, to an enactment repealed by this Act shall, unless the context otherwise requires, be construed as a reference to the corresponding enactment in this Act.

4 Nothing in this Act shall affect the enactments repealed by this Act in their operation in relation to offences committed before the commencement of this Act.

5 The repeal by this Act of section 22 of the 1955 Act shall not affect the operation of that section in so far as it relates to a person who is the owner and occupier of a holding mentioned in subsection (6) of that section.

6 Notwithstanding the repeal by this Act of section 3 of the [M25]Crofter Forestry (Scotland) Act 1991, the amendments made by that section to section 1 of the [M26]Forestry Act 1979 and to section 2 of the [M27]Farm Land and Rural Development Act 1988 shall continue to have the same effect as they had immediately before the commencement of this Act.

Marginal Citations

M25 1991 c. 18.
M26 1979 c. 21.
M27 1988 c. 16.

SCHEDULE 7

Section 63(2).

REPEALS

PART I

ENACTMENTS REPEALED SO FAR AS THEY APPLY IN THE CROFTING COUNTIES

Chapter	Short title	Extent of repeal
49 & 50 Vict. c. 29	The Crofters [F388]	Section 30.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

	[Holdings**]** (Scotland) Act 1886	
		Section 33.
1 & 2 Geo. 5 c. 49	The Small Landholders (Scotland) Act 1911	Section 28.
1976 c. 21	The Crofting Reform (Scotland) Act 1976	Section 17(2).

Textual Amendments

F388 Word in Sch. 7 Pt. 1 inserted (retrospectively) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **Sch. 1 para. 2(21)(22)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, **Sch.**

PART II

OTHER ENACTMENTS REPEALED

Chapter	Short title	Extent of repeal
3 & 4 Eliz. 2 c. 21	The Crofters (Scotland) Act 1955	The whole Act.
9 & 10 Eliz 2 c. 58	The Crofters (Scotland) Act 1961	The whole Act.
1976 c. 21	The Crofting Reform (Scotland) Act 1976	The whole Act except section 17.
1985 c. 73	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985	Sections 30 and 31.
1991 c.18	The Crofter Forestry (Scotland) Act 1991	The whole Act.

TABLE OF DERIVATIONS

Showing the derivation of the provisions of the Act

NOTE: The following abbreviations are used in this Table—

1955	= The Crofters (Scotland) Act 1955 (c.21)
1961	= The Crofters (Scotland) Act 1961 (c.58)
1968	= The Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c.70)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

1973	= The Local Government (Scotland) Act 1973 (c.65)
1974	= The Housing (Scotland) Act 1974 (c.45)
1975	= The Criminal Procedure (Scotland) Act 1975 (c.21)
1976	= The Crofting Reform (Scotland) Act 1976 (c.21)
1985	= The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73)
1991	= The Crofter Forestry (Scotland) Act 1991 (c.18)
R (followed by a number)	= The recommendation so numbered in the Appendix to the Report of the Scottish Law Commission.

Provisions	**Derivations**
1	1955 s.1; 1961 s.1; 1976 Sch.2 para.4.
2	1955 s.2; 1976 Sch.2 para.5.
3	1955 s3(1), (2), (5) and (6); 1961 Sch.1 Pt.II para.9; 1976 s.14.
4(1)	1961 s.2(2).
(2)	1961 s.2(2A); 1976 Sch.2 para.17.
(3)	1961 s.2(3).
(4)	1961 s.2(5).
5(2)	1955 s.3(3).
(3)	1955 s.3(4).
6	1955 s.5.
7	1955 s.7; 1961 Sch.1 Pt.I para.1.
8	1955 s.8; 1961 Sch.1 Pt.II para.10; 1968 Sch.2 Pt.I para 1; 1976 s.15 and Sch.2 para.6.
9	1955 s.9.
10	1955 s.10; 1968 Sch.2 Pt.I paras.2 and 3.
11	1955 s.11; 1968 s.8 Sch.2 Pt II.
12(1)–(4)	1976 s.1. R1.
(5)	1955 s.28(4); 1976 s.21.
13	1976 s.2.
14	1976 s.3.
15	1976 s.4.

16	1976 s.5.
17	1976 s.6; R2.
18	1976 s.7.
19	1976 s.8.; Enterprise and New Towns (Scotland) Act 1990 (c.35) s.22.
20	1955 s.12; 1961 Sch.1 Pt.II para.11; 1976 Sch.3; 1985 s.30(1); 1991 s.2(1).
21	1976 s.9; 1985 s.30(2); R3.
22	1955 s.17; 1976 Sch.2 para.9.
23	1955 s.16; 1961 Sch.1 Pt.I para.5 & Pt.II para.12; 1968 Sch.2 Pt.I para.17; 1975 ss.289F and 289G; 1976 s.13 Sch.2 para.8; R4.
24	1955 ss.12(4), 16(7),(9) and (9A).
25	1955 s.16A; 1976 s13(3).
26	1955 s.13; 1961 Sch.1 Pt.I para.3.
27	1961 s.11.
28(1) to (16)	1961 s.12; 1976 Sch.2 para.20.
(17)	1961 s.19(2).
29	1961 s.13; 1976 Sch.2 para.21.
30(1)	1955 s.14(1); 1968 s.8 Sch.2 Pt.II.
(2)	1955 s.14(2).
(3)	1955 s.14(3).
(4)	1955 s.14(8).
(5)	1955 s.14(10).
(6)	1955 s.14(11).
(7)	1955 s.37(1).
31	1961 s.5.
32	1961 s.6; 1968 Sch.2 paras. 19 to 21.
33	1955 s.6.
34(1)	1955 s.14(6).
(2)	1955 s.14(7).
(3)	1955 s.14(8).
35	1955 s.14(9).
36	1955 s.28; 1961 Sch.1 Pt.I para.7.
37	1976 s.10.
38	1961 s.8.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

39	1961 s.9.
40	1955 s.15; 1975 ss.289F and 289G; 1976 Sch.2 para.7.
41	1961 s.3; 1976 Sch.2 para.18; 1991 s.2(7).
42(1) to (6) and (8) to (10)	1955 s.22; 1961 s.14; 1975 ss.289F and 289G; 1976 s.12(2), (5) and (6); 1985 s.31. R5(a) and (b).
(7)	1961 s.14(2).
43	1955 s.23; 1957 s.10(7).
44	1955 s.28(3).
45	1976 s.12(1),(3),(4) and (5).
46(1) to (3)	1955 s.31; 1976 s.12(2) and (5); 1976 Sch.2 para.13.
(4)	1961 s.14(1).
47(1) to (9)	1955 s.24; 1961 15(1), Sch.1 Pt.II para.13; 1976 s.16(1).
(10)	1961 s.15(6).
48	1955 s.25; 1961 Sch.1 Pt.II para.14; 1976 s.16(2) and (3); 1991 ss.1(1) and 2(2).
49	1955 s.26; 1961 s.15(2) and (3) Sch.1 Pt.II para.15; 1976 s.16(4); 1991 s.2(3).
50	1991 s.1(2).
51	1961 s.2(4) and (5).
52 (except subs (6))	1955 s.27; 1961 s.15; 1975 ss.289F and 289G; 1976 s.16(5) and Sch.2 para.11; 1991 s.2(4); R6(a) and (b).
(6)	1961 s.15(5).
53(1)	1961 s.4(1); 1976 Sch.2 para.19.
(2)	1961 s.4(2).
54	1976 s.17(2).
55	1955 s.29.
56	1955 s.30; 1975 ss.289E, 289F and 289G.
57	1955 s.32; 1963 s.47.
58	1955 s.33.
59	1955 s.35
60	1955 s.36.
61	1955 s.37; 1961 s.17(1); 1973 Sch.27 Pt.II para.20; 1976 s.21.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

62	1955 s.38; 1976 s.19.
Sch 1	1955 Sch.1; 1976 s.18.
Sch 2	1955 Sch.2; 1961 Sch.1 Pt.II para.20; 1991 s.2(5).
Sch 3	1955 Sch. 5; 1961 Sch.1 Pt.II para. 21; 1974 s.25(3); 1991 s.2(6).
Sch 4	1961 Sch.2; 1973 s.237(2).
Sch 5	1955 Sch.3; 1976 Sch.2 para.15.

Provisions	**Derivations**
1	1955 s.1; 1961 s.1; 1976 Sch.2 para.4.
2	1955 s.2; 1976 Sch.2 para.5.
3	1955 s3(1), (2), (5) and (6); 1961 Sch.1 Pt.II para.9; 1976 s.14.
4(1)	1961 s.2(2).
(2)	1961 s.2(2A); 1976 Sch.2 para.17.
(3)	1961 s.2(3).
(4)	1961 s.2(5).
5(2)	1955 s.3(3).
(3)	1955 s.3(4).
6	1955 s.5.
7	1955 s.7; 1961 Sch.1 Pt.I para.1.
8	1955 s.8; 1961 Sch.1 Pt.II para.10; 1968 Sch.2 Pt.I para 1; 1976 s.15 and Sch.2 para.6.
9	1955 s.9.
10	1955 s.10; 1968 Sch.2 Pt.I paras.2 and 3.
11	1955 s.11; 1968 s.8 Sch.2 Pt II.
12(1)–(4)	1976 s.1. R1.
(5)	1955 s.28(4); 1976 s.21.
13	1976 s.2.
14	1976 s.3.
15	1976 s.4.
16	1976 s.5.
17	1976 s.6; R2.
18	1976 s.7.
19	1976 s.8.; Enterprise and New Towns (Scotland) Act 1990 (c.35) s.22.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

20	1955 s.12; 1961 Sch.1 Pt.II para.11; 1976 Sch.3; 1985 s.30(1); 1991 s.2(1).
21	1976 s.9; 1985 s.30(2); R3.
22	1955 s.17; 1976 Sch.2 para.9.
23	1955 s.16; 1961 Sch.1 Pt.I para.5 & Pt.II para.12; 1968 Sch.2 Pt.I para.17; 1975 ss.289F and 289G; 1976 s.13 Sch.2 para.8; R4.
24	1955 ss.12(4), 16(7),(9) and (9A).
25	1955 s.16A; 1976 s13(3).
26	1955 s.13; 1961 Sch.1 Pt.I para.3.
27	1961 s.11.
28(1) to (16)	1961 s.12; 1976 Sch.2 para.20.
(17)	1961 s.19(2).
29	1961 s.13; 1976 Sch.2 para.21.
30(1)	1955 s.14(1); 1968 s.8 Sch.2 Pt.II.
(2)	1955 s.14(2).
(3)	1955 s.14(3).
(4)	1955 s.14(8).
(5)	1955 s.14(10).
(6)	1955 s.14(11).
(7)	1955 s.37(1).
31	1961 s.5.
32	1961 s.6; 1968 Sch.2 paras. 19 to 21.
33	1955 s.6.
34(1)	1955 s.14(6).
(2)	1955 s.14(7).
(3)	1955 s.14(8).
35	1955 s.14(9).
36	1955 s.28; 1961 Sch.1 Pt.I para.7.
37	1976 s.10.
38	1961 s.8.
39	1961 s.9.
40	1955 s.15; 1975 ss.289F and 289G; 1976 Sch.2 para.7.
41	1961 s.3; 1976 Sch.2 para.18; 1991 s.2(7).

42(1) to (6) and (8) to (10)	1955 s.22; 1961 s.14; 1975 ss.289F and 289G; 1976 s.12(2), (5) and (6); 1985 s.31. R5(a) and (b).
(7)	1961 s.14(2).
43	1955 s.23; 1957 s.10(7).
44	1955 s.28(3).
45	1976 s.12(1),(3),(4) and (5).
46(1) to (3)	1955 s.31; 1976 s.12(2) and (5); 1976 Sch.2 para.13.
(4)	1961 s.14(1).
47(1) to (9)	1955 s.24; 1961 15(1), Sch.1 Pt.II para.13; 1976 s.16(1).
(10)	1961 s.15(6).
48	1955 s.25; 1961 Sch.1 Pt.II para.14; 1976 s.16(2) and (3); 1991 ss.1(1) and 2(2).
49	1955 s.26; 1961 s.15(2) and (3) Sch.1 Pt.II para.15; 1976 s.16(4); 1991 s.2(3).
50	1991 s.1(2).
51	1961 s.2(4) and (5).
52 (except subs (6))	1955 s.27; 1961 s.15; 1975 ss.289F and 289G; 1976 s.16(5) and Sch.2 para.11; 1991 s.2(4); R6(a) and (b).
(6)	1961 s.15(5).
53(1)	1961 s.4(1); 1976 Sch.2 para.19.
(2)	1961 s.4(2).
54	1976 s.17(2).
55	1955 s.29.
56	1955 s.30; 1975 ss.289E, 289F and 289G.
57	1955 s.32; 1963 s.47.
58	1955 s.33.
59	1955 s.35
60	1955 s.36.
61	1955 s.37; 1961 s.17(1); 1973 Sch.27 Pt.II para.20; 1976 s.21.
62	1955 s.38; 1976 s.19.
Sch 1	1955 Sch.1; 1976 s.18.
Sch 2	1955 Sch.2; 1961 Sch.1 Pt.II para.20; 1991 s.2(5).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Crofters (Scotland) Act 1993. (See end of Document for details)*

Sch 3	1955 Sch. 5; 1961 Sch.1 Pt.II para. 21; 1974 s.25(3); 1991 s.2(6).
Sch 4	1961 Sch.2; 1973 s.237(2).
Sch 5	1955 Sch.3; 1976 Sch.2 para.15.

Status:
This version of this Act contains provisions that are prospective.

Changes to legislation:
There are currently no known outstanding effects for the Crofters (Scotland) Act 1993.