



Crofters (Scotland) Act 1993

1993 CHAPTER 44

[^{F1}Consent for absence from croft]

23 Vacant crofts.

(1) Where—

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

the landlord shall within one month from—

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

as the case may be, give notice thereof to the Commission.

- (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.

[^{F1}(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.

[^{F2}(3ZA) Where approval is applied for under subsection (3) in relation to an unregistered croft (or any part of such a croft), the Commission—

Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 23. (See end of Document for details)

- (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.]

^{F3}(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 [^{F4}, 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, [^{F5}subsections (5) and (6) of section 26H] of this Act shall, subject to any necessary modifications, apply as [^{F6}they apply] where a crofter fails to give up the occupation of a croft as mentioned in [^{F7}subsection (5) of that section] .

(5) [^{F8}Subject to subsection (5A) below,] where a croft is vacant the Commission may, at any time after the expiry of one month from the occurrence of the vacancy, give notice to the landlord requiring him to submit to them [^{F9}, before the expiry of the period of 2 months beginning with the day on which the notice is given,] his proposals for re-letting the croft, whether as a separate croft or as an enlargement of another croft^{F10} ... [^{F11} .

[^{F12}(5ZA) No more than three proposals may be submitted to the Commission in response to a notice given under subsection (5).

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

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

(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

Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 23. (See end of Document for details)

- (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.]

[^{F13}(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) [^{F14}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.]

[^{F15}(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 [^{F16}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.

Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 23. (See end of Document for details)

- (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 ^[F17]by—
- (a) the tenant of the croft;
 - (b) the owner-occupier crofter of the croft;
 - (c) the subtenant of a sublet to which section 27 applies; or
 - (d) the tenant of a let to which section 29A applies.]
- (11) The provisions of this section and sections 24 ^[F18], 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) ^[F19]Subject to subsection (12A),] This section and section 24 of this Act shall have effect as if—
- (a) a person who has become the owner-occupier of a croft were required under subsection (1) above within one month of the date on which he became such owner-occupier to give notice thereof to the Commission; and
 - (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.
- ^[F20](12A) Where the owner-occupier is an owner-occupier crofter, this section ^[F21]has] effect as if—
- (a) the owner-occupier crofter were required under subsection (1) of this section, within one month of becoming such an owner-occupier crofter, to give notice to the Commission of that fact; and
 - (b) the reference to a landlord in subsection (2) ^[F22]... included a reference to an owner-occupier crofter.]

Textual Amendments

- F1** 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
- F2** 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)
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** Words in s. 23(4) substituted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(14)(c)(iv)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F8** 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
- F9** 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)
- F10** 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)
- F11** 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
- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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)
- F16** 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)
- F17** 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)
- F18** 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)**
- F19** 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)
- F20** 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)
- F21** 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)**
- F22** 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)**

Changes to legislation:

There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 23.