



Crofters (Scotland) Act 1993

1993 CHAPTER 44

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 [^{F1}provisional] draft of a scheme (in this Act referred to as a “reorganisation scheme”) for the reorganisation of the township.

[^{F2}(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, 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.

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- [^{F3}(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 [^{F4}, 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 [^{F5}or, as the case may be, of the provisional draft or draft,] and its effects on each of the crofts in the township.
- [^{F6}(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

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- (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;
 - [^{F7}(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.
- (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,

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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

- F1** 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.
- F2** 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.
- F3** 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.
- F4** 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.
- F5** 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.
- F6** 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.
- F7** 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)

Changes to legislation:

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