



# Crofters (Scotland) Act 1993

## 1993 CHAPTER 44

### *Miscellaneous and General Provisions*

#### **[<sup>F1</sup>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) [<sup>F2</sup>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); <sup>F3</sup>...
  - (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<sup>F4</sup>; or
  - (d) any other person the Commission consider has a relevant interest in the application,]

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 58A. (See end of Document for details)*

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.

[ Despite subsection (4), the Commission may accept an objection submitted after the <sup>F5</sup>(5A) 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 [<sup>F6</sup>must, subject to subsection (6A), decide the application by] —

- [<sup>F7</sup>(a) granting it;
- (b) granting it subject to conditions; or
- (c) refusing it.]

[ Where—

- <sup>F8</sup>(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).]

<sup>F9</sup>(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.

<sup>F9</sup>(8) .....

<sup>F9</sup>(9) .....

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<sup>F9</sup>(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 [<sup>F10</sup> or 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 <sup>F11</sup> ....

[ The Commission must, before the expiry of the period of 21 days beginning with the <sup>F12</sup>(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
  - (iv) as the case may be, the grazings committee.]

<sup>F13</sup>(13) .....

<sup>F13</sup>(14) .....

<sup>F13</sup>(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

- F1** 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**
- F2** 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**)
- F3** 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**)
- F4** 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**)
- F5** 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**)

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*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 58A. (See end of Document for details)*

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- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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))
- F10** 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)
- F11** 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)
- F12** 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)
- F13** 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)

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**Modifications etc. (not altering text)**

- C1** 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)

**Changes to legislation:**

There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 58A.