



# Crofting Reform etc. Act 2007

## 2007 asp 7

### PART 1

#### THE CROFTERS COMMISSION

#### 1 Discharge of functions

In section 1 of the 1993 Act (constitution and general functions of Crofters Commission), for subsection (3) there is substituted—

“(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.”.

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#### Commencement Information

**I1** S. 1 in force at 25.6.2007 by [S.S.I. 2007/269](#), art. 2, [Sch.](#)

#### 2 Equal opportunities

After section 59 of the 1993 Act, there is inserted—

##### “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).”.

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#### Commencement Information

**I2** S. 2 in force at 25.6.2007 by [S.S.I. 2007/269](#), art. 2, [Sch.](#)

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*Status: Point in time view as at 28/01/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Crofting Reform etc. Act 2007, Part 1. (See end of Document for details)*

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### 3 Obtaining Commission approval or consent

After section 3 of the 1993 Act, there is inserted—

#### “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) 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); or
  - (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,
 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.
- (6) When those 28 days have elapsed the Commission—
  - (a) must, in a case where they have received such objections by virtue of subsection (4) above and do not consider them to be frivolous, vexatious or unreasonable, intervene as respects the application;
  - (b) may, in any other case, decide to do so if it appears to them that any of—
    - (i) the general conditions; or
    - (ii) any conditions (if any) special to applications of the category in question,
 applies as respects the application.
- (7) If, as regards an objection duly submitted under subsection (4) above, the Commission decide not to have regard to it or that it does not provide them with grounds for intervention as respects the application they shall notify—

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- (a) the applicant, the landlord (or owner) and, as the case may be, the grazings committee of the terms of the objection and of the reason for that decision; and
  - (b) the objector, of that reason.
- (8) If, other than by reason of any such objection, the Commission decide to intervene as respects the application, they shall notify the applicant, the landlord (or owner) and, as the case may be, the grazings committee of their decision to intervene, stating their reasons for intervention.
- (9) The general conditions are—
  - (a) that, were the proposal to be implemented, there is reason to suppose that any or all of the following would be affected adversely—
    - (i) the interests of the estate which comprises the land;
    - (ii) the interests of the crofting community mentioned in subsection (4)(b) above;
    - (iii) the interests of the public at large;
    - (iv) the sustainable development of the crofting community so mentioned; and
  - (b) that such information as is contained in the application and its accompanying documents is insufficient for them to come to a decision as respects the proposal.
- (10) If the Commission—
  - (a) do not intervene, 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 and notify—
    - (i) the applicant;
    - (ii) the landlord (or owner);
    - (iii) any person who objected under subsection (4) above; and
    - (iv) as the case may be, the grazings committee,that the proposal is approved and may be implemented or as the case may be that the matter is consented to and may be proceeded with accordingly;
  - (b) intervene, they shall, within 21 days after the 28 days mentioned in subsection (4) above have elapsed—
    - (i) notify the persons mentioned in sub-paragraphs (i) to (iv) of paragraph (a) above of their decision to intervene, stating their reasons for intervention;
    - (ii) inform those persons (provided in the case of a person who objected under subsection (4) above that the objection was not considered by the Commission to be frivolous, vexatious or unreasonable) that they may, after the Commission make a determination under subsection (11) below, have the right to appeal to the Land Court as respects that determination.
- (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; and

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references in this section to their intervening are to their proceeding to such a determination.

- (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 and give such notification as is mentioned in subsection (10)(a) above.
- (13) The Scottish Ministers may issue guidance to the Commission for the purposes of subsection (9)(a)(iv) above; and the Commission must have regard to any guidance so issued.
- (14) The Scottish Ministers may by order made by statutory instrument amend—
- (a) subsection (9) above;
  - (b) any provision of this Act in which are set out conditions mentioned in subsection (6)(b)(ii) above,
- so as to add to, vary or revoke the general conditions or as the case may be the conditions so mentioned.
- (15) A statutory instrument containing an order under subsection (14) above shall not be made unless a draft of the instrument has been—
- (a) laid before; and
  - (b) approved by resolution of,
- the Scottish Parliament.
- (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.”.

#### Commencement Information

**I3** S. 3 in force at 28.1.2008 by S.S.I. 2007/568, art. 2

#### 4 Obtaining of information by Commission

In section 40 of the 1993 Act (obtaining of information by the Commission)—

- (a) in subsection (1)—
  - (i) for the words “The Commission may by notice” there is substituted “ Without 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 ”; and
  - (ii) after the words “any holding” insert “ , or on the executor of the person who most recently was the owner or occupier of any holding, ”;

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- (b) in subsection (2), for the words “owner or occupier” there is substituted “owner, occupier or executor”; and
- (c) after subsection (2) there is added—
  - “(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.”

#### Commencement Information

**I4** S. 4 in force at 28.1.2008 by S.S.I. 2007/568, art. 2

## 5 Maintenance of and provision of information from the Register of Crofts

In section 41 of the 1993 Act (Register of Crofts)—

- (a) in subsection (2)—
  - (i) for paragraph (c) there is substituted—
    - “(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—

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- (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 section 22(1) of this Act;
- (iii) direction under section 24(3) 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;” and
- (ii) for the words “the accuracy of the Register” there is substituted “ , so far as practicable, that the Register is consistent with such information as the Commission has obtained under or by virtue of this Act ”;
- (b) for subsection (3) there is substituted—
  - “(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.”; and
- (c) after subsection (4) there is added—
  - “(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.”.

#### Commencement Information

**I5** S. 5 in force at 28.1.2008 by S.S.I. 2007/568, art. 2

**Status:**

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**Changes to legislation:**

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