

SCHEDULE 1

(introduced by section 39)

MINOR AND CONSEQUENTIAL AMENDMENTS

Crofters Holdings (Scotland) Act 1886 (c. 29)

- 1 In section 1(4) of the Crofters Holdings (Scotland) Act 1886 (crofter not to be removed except for breach of statutory conditions), for the words “subdivide his holding or sublet the same” there is substituted “sublet his holding”.

Crofters (Scotland) Act 1993 (c. 44)

- 2 (1) The 1993 Act is amended in accordance with this paragraph.
- (2) In section 1(4) (constitution and general functions of the Crofters Commission), for the word “chairman” there is substituted “convener”.
- (3) In section 4 (enlargement where owner and crofter are in agreement), after subsection (2) there is inserted—
- “(2A) The crofter shall pay to the landlord such rent as they shall agree for the croft as enlarged under subsection (1) above (section 6 of, and paragraph 1 of Schedule 2 to, this Act being construed accordingly).”.
- (4) In section 6 (rent)—
- (a) in subsection (3)—
- (i) after the words “landlord for the croft” there is inserted “or for any part of the croft”;
- (ii) in paragraph (a) of the proviso, after the word “croft” there is inserted “or for any part of the croft”; and
- (iii) in paragraph (b) of the proviso, after the word “rent” there is inserted “for it or for any part of it”;
- (b) after subsection (3) there is inserted—
- “(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.”; and
- (c) in subsection (4), after the words “a croft” there is inserted “or for any part of a croft”.
- (5) In section 13 (authorisation by Land Court of acquisition of croft land), at the end there is added—
- “(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

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- (b) determine that the expenses of taxing those expenses are to be borne by them in such proportion as the auditor thinks fit.”.
- (6) In section 24(1) (decrofting in case of resumption of croft), at the end there is added “and to sections 3A and 21A of this Act”.
- (7) In section 25(6) (decrofting: supplementary provision), after the words “pertaining to the croft” there is inserted “or only of land the conveyance in feu of which was granted under section 17 or 18 of the 1955 Act”.
- (8) In section 26 (provisions as to removal of crofter)—
- (a) in subsection (1), for the words “for the removal of the crofter” there is substituted “—
- (i) terminating the tenancy;
- (ii) declaring the croft to be vacant; and
- (iii) for the removal of the tenant from the croft”; and
- (b) in subsection (3), after the words “his croft” there is inserted “(whether by virtue of this section or by virtue of section 5A or 5B of this Act)”.
- (9) In section 41 (Register of Crofts)—
- (a) in subsection (1), for the words from “a” to “Crofts”)” there is substituted “the register known as the Register of Crofts”; and
- (b) after subsection (2), there is inserted—
- “(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.”.
- (10) In section 42 (financial assistance to crofters)—
- (a) in subsection (1)—
- (i) for the words “aiding and developing agricultural production on” there is substituted “supporting any reasonable use which promotes the sustainable development of”; and
- (ii) the words “and with the approval of the Treasury” and “and loans” are repealed;
- (b) after that subsection there is inserted—
- “(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.”;
- (c) in subsection (2)—
- (i) in paragraph (a), the words “and loans” are repealed;
- (ii) in paragraph (b), for the words “Secretary of State” there is substituted “Scottish Ministers, or the Commission on behalf of the Ministers,” and the words “or loan” are repealed; and
- (iii) in paragraph (c), the words “or loan” are repealed in both places where they occur;
- (d) in subsection (4)—

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- (i) at the beginning there is inserted “Without prejudice to subsection (1) above,”; and
 - (ii) the words “with the approval of the Treasury” and “or loans or by the supply for payment in cash of building or other materials” are repealed;
 - (e) subsection (5) is repealed;
 - (f) in subsection (6)—
 - (i) in paragraph (b), for the words “Secretary of State” there is substituted “Scottish Ministers, or the Commission on behalf of the Ministers,”;
 - (ii) in paragraph (c), for the words “Secretary of State” there is substituted “Scottish Ministers, or to the Commission on behalf of the Ministers,”; and
 - (iii) in paragraph (d), the words “to the Secretary of State” are repealed;
 - (g) in subsection (8), for the words from “assistance by” to “supplies” there is substituted “grant under subsection (1) above, nor assistance under subsection (4) above, shall be given towards carrying out any works”;
 - (h) in subsection (9), after the word “receiving” there is inserted “a grant under subsection (1) above nor”;
 - (i) after that subsection, there is inserted—
 - “(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.”; and
 - (j) in subsection (10)—
 - (i) the words “or loan” are repealed; and
 - (ii) after the words “or under”, there is inserted “arrangements made under”.
- (11) In section 44 (cottars), for the words from “loan” to “materials” there is substituted “grant”.
- (12) In section 45 (former crofters and cottars who have acquired site of the dwelling-house)—
 - (a) subsection (2) is repealed; and
 - (b) in subsection (4), the words “or loan” are repealed.
- (13) In section 46 (financial assistance to owners and owner-occupiers of crofts and other holdings)—
 - (a) in subsection (1), for the words from “loan” to “materials” there is substituted “grant”;
 - (b) in subsection (2)(c), for the words “is of substantially the same economic status as a crofter” there is substituted “uses his holding in a way which is substantially the same as that of a crofter”;
 - (c) subsection (3) is repealed;
 - (d) in subsection (4)—
 - (i) in paragraph (a), for the words “are of substantially the same economic status as a crofter” there is substituted “use their crofts in a way which is substantially the same as that of a crofter”; and

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- (ii) in each of paragraphs (b) and (c), for the words “are of substantially the same economic status as a crofter” there is substituted “use their holdings in a way which is substantially the same as that of a crofter”; and
 - (e) in subsection (5), the words “or loan” are repealed.
- (14) In section 47 (appointment etc. of grazings committee or grazings constable)—
 - (a) in subsection (1), for the words “called in accordance with subsection (2) below” there is substituted “of which public notification has been given”;
 - (b) subsection (2) is repealed;
 - (c) after subsection (6) there is inserted—
 - “(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.”;
 - (d) in subsection (8)—
 - (i) the words “or the clerk” are repealed;
 - (ii) after the word “them” there is inserted “(or that the grazings clerk is not properly carrying out the duties imposed on him)”; and
 - (e) in subsection (9)—
 - (i) for the words “clerk appointed under subsection (6) or (8) above” there is substituted “grazings clerk”; and
 - (ii) for the word “grazings”, in the final place where it occurs, there is substituted “grazing”.
- (15) In section 48 (powers and duties of grazings committees)—
 - (a) in subsection (1)—
 - (i) in paragraph (a), for the word “grazings” there is substituted “grazing” and for the word “therewith” there is substituted “with such maintenance and with the implementation of any proposal approved under section 50B(11) of this Act”;
 - (ii) after paragraph (b) there is inserted—
 - “(bb) to carry out works in implementation of any such proposal as is mentioned in paragraph (a) above;”;
 - (iii) in paragraph (c), for “grazings”, in the second place it occurs, there is substituted “grazing”; and
 - (iv) in the proviso to paragraph (c), for “grazings”, in the second place it occurs, there is substituted “grazing”;
 - (b) in subsection (2)—
 - (i) for the word “grazings”, in the second place it occurs, there is substituted “grazing”; and
 - (ii) after the words “(1)(b)” there is inserted “or (bb)”;
 - (c) after subsection (4) there is inserted—
 - “(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.”;

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- (d) in subsection (5), for the word “interested” there is substituted “who holds a right”; and
 - (e) after subsection (6) there is inserted—
 - “(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.”.
- (16) In section 49 (common grazings regulations)—
- (a) in subsection (2)—
 - (i) in paragraph (a), for the word “grazings”, in the second and third places it occurs, there is substituted “grazing” and for the word “therewith” there is substituted “with such maintenance or with the implementation of any proposal approved under section 50B(11) of this Act”;
 - (ii) in paragraph (b), after the words “(1)(b)” there is inserted “or (bb)”;
 - (iii) in paragraph (c), for the words “and (b) respectively” there is substituted “to (bb)”;
 - (iv) in each of paragraphs (d) and (e), for the word “grazings” there is substituted “grazing”;
 - (b) in subsection (3)—
 - (i) in paragraph (a), for the word “grazings”; and
 - (ii) in paragraph (b), for the word “grazings”, in both places it occurs, there is substituted “grazing”; and
 - (c) in subsection (7)—
 - (i) for the word “landlord”, in both places it occurs, there is substituted “owner”; and
 - (ii) for the word “grazings”, in the first place it occurs, there is substituted “grazing”.
- (17) In section 52(2) (application for consent for exclusion of stock from croft in certain circumstances), for the word “grazings”, in the second, third and fourth places it occurs, there is substituted “grazing”.
- (18) In section 55 (service of notices), after subsection (1) there is inserted—
- “(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.”.
- (19) In section 61(1) (interpretation) at the appropriate places there are added—
- ““enactment” includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;”
 - ““public notification” has the meaning given by section 55A of this Act;”;

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““woodlands” includes woodlands created by planned natural regeneration (as defined by section 50A(8) of this Act)”.

- (20) In Schedule 1 (provisions as to the Crofters Commission), in paragraph 8, for the words “acting as chairman of” there is substituted “chairing”.
- (21) In Part 1 of Schedule 7 (repeals), in the table, in the entry relating to the Crofters (Scotland) Act 1886, after the word “Crofters” there is inserted “Holdings”.
- (22) That Schedule is to be deemed always to have had effect subject to the amendment specified in sub-paragraph (21).

Scottish Land Court Act 1993 (c. 45)

- 3 In section 1(6) of the Scottish Land Court Act 1993 (jurisdiction of the Court), for the words “the Agricultural Holdings (Scotland) Act 2003 (asp 11)” there is substituted “or by virtue of an Act of the Scottish Parliament”.

Deer (Scotland) Act 1996 (c. 58)

- 4 In section 26 of the Deer (Scotland) Act 1996 (right of occupier in respect of deer causing serious damage to crops etc.)—
- (a) in subsection (2), at the end there is added “and in relation to enclosed land (other than moorland) which is part of a common grazing, the subsection also applies to a person who for the purposes of the subsection is both duly authorised in writing by the grazings committee (provided the grazings committee have such reasonable ground as is mentioned in that subsection) and approved as is mentioned in paragraph (d) above”; and
- (b) in subsection (4), in each of paragraphs (a) and (d), after the word “occupier” there is inserted “, or as the case may be the committee,”.

Land Reform (Scotland) Act 2003 (asp 2)

- 5 (1) The Land Reform (Scotland) Act 2003 is amended in accordance with this paragraph.
- (2) In section 68 (land which may be bought: eligible croft land), after subsection (1) there is inserted—
- “(1A) But subsection (1) above is subject to section 69A below.”.
- (3) In section 73 (application by crofting community for consent to buy croft land etc.)—
- (a) in subsection (3)—
- (i) after the word “interests” there is inserted “or more than one tenancy”; and
- (ii) after the words “such holding” there is inserted “or tenancy”;
- (b) in subsection (4), at the end there is added “and a “tenancy” is one where one person is entitled to the tenant’s interest or there is a common or joint entitlement to that interest”;
- (c) in subsection (5)(a), for the word “or” there is substituted “, the subjects of the lease or the”;
- (d) after subsection (5) there is inserted—

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- “(5A) Paragraphs (b) to (d) and (f) of subsection (5) above do not apply as respects an application made by virtue of section 69A(2) of this Act.”;
- (e) in subsection (6), after paragraph (a) (but before the word “and” which immediately follows that paragraph) there is inserted—
- “(aa) in the case of an application made by virtue of section 69A(2) above, send a copy of its application to the tenant;”; and
- (f) in subsection (8)(a) after sub-paragraph (i) there is inserted—
- “(ia) in the case of an application made by virtue of section 69A(2) above, the tenant;”.
- (4) In section 74 (criteria for consent by Ministers), after subsection (1) there is inserted—
- “(1A) But subsection (1)(a) above is subject to section 69A above.”.
- (5) In section 75 (ballot to indicate approval for purposes of section 74(1)(m))—
- (a) in subsection (1)—
- (i) after the words “buy land” there is inserted “, the interest of a tenant over land”;
- (ii) in paragraph (a), after the word “land” there is inserted “, tenant’s interest”; and
- (iii) in paragraph (b)(ii), at the end there is added “or within the land over which the tenant’s interest subsists”;
- (b) in subsection (3), after the word “land” there is inserted “, tenant’s interest”;
- (c) in subsection (4)(c), at the end there is added “or as the case may be within the land over which the tenant’s interest subsists”; and
- (d) in subsection (5)—
- (i) in paragraph (a), at the end there is added “or within the land over which the tenant’s interest subsists”; and
- (ii) at the end there is added “or within the land over which the tenant’s interest subsists”.
- (6) In section 76 (right to buy same croft exercisable by only one crofting community body)—
- (a) in subsection (1), after the word “land” there is inserted “, tenant’s interest”; and
- (b) in subsection (4)—
- (i) in paragraph (a), after the word “or” there is inserted “tenant’s interest which is, or the”; and
- (ii) in paragraph (b)(i), for the word “or” there is substituted “, the tenant or the”.
- (7) In section 81 (reference to Land Court of questions on applications)—
- (a) in subsection (1), after paragraph (c) (but before the word “or” which immediately follows that paragraph) there is inserted—
- “(ca) where the subject of the application is a tenant’s interest, any person who has an interest in the lease, being an interest giving rise to a right which is legally enforceable by that person;”; and

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- (b) in subsection (2), after paragraph (b) (but before the word “or” which immediately follows that paragraph) there is inserted—
 - “(ba) the tenant whose interest is the subject of the application;”.
- (8) In section 82 (notification of Ministers' decision on application)—
 - (a) in subsection (1)(b), after the word “or” there is inserted “as the case may be the tenant whose interest is the subject of the application or the”; and
 - (b) in subsection (2)(a), after the word “land” there is inserted “, tenant’s interest”.
- (9) In section 85 (confirmation of intention to proceed with purchase and withdrawal)—
 - (a) in subsection (1)—
 - (i) after the words “buy land” there is inserted “, the interest of a tenant over land”;
 - (ii) after the words “buy the land” there is inserted “, tenant’s interest”; and
 - (iii) after the words “of the land or” there is inserted “, as the case may be, the tenant or the”; and
 - (b) in subsection (3), after the words “land or” there is inserted “, as the case may be, the tenant or the”.
- (10) In section 86 (completion of purchase)—
 - (a) in subsection (1)—
 - (i) in sub-paragraph (i) of paragraph (a), at the end (but before the word “and” which immediately follows that sub-paragraph) there is added “to it of the land or sporting interests or as the case may be the assignation to it of the tenant’s interest”;
 - (ii) in sub-paragraph (i) of paragraph (b), at the end (but before the word “and” which immediately follows that sub-paragraph) there is added “or assigned”; and
 - (iii) in sub-paragraph (ii) of paragraph (b), after the word “transfer” there is inserted “or assignation”;
 - (b) in subsection (4), after the words “entitled to the” there is inserted “sporting”;
 - (c) in subsection (c), after the words “entitled to the” there is inserted “sporting”; and
 - (d) at the end there is added—
 - “(7) In relation to an application made by virtue of section 69A(2) above, the tenant is obliged to make available to the crofting community body such deeds and other documents as are sufficient to enable the body to complete its acquisition of the tenant’s interest and the tenant is obliged to effect the assignation of his interest accordingly.
 - (8) If, within 6 weeks after the date on which Ministers consent to an application made by virtue of section 69A(2) above the tenant refuses or fails to make those deeds and other documents available, or they cannot be found, the Land Court may, on the application of the crofting community body, order the tenant or any other person appearing to the Court to have those deeds and documents to produce them.

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- (9) If the tenant refuses or fails to effect the assignment of the tenant's interest in accordance with subsection (7) above, the Land Court may, on the application of the crofting community body, authorise its principal clerk to adjust, execute and deliver such deeds or other documents as will complete the assignment to the like force and effect as if done by the tenant."
- (11) In section 87 (completion of transfer)—
- (a) in subsection (1), after the word "interests" there is inserted "or for the assignment of the tenant's interest";
 - (b) in subsection (2), for the word "or" there is substituted " , the tenant's interest or the sporting";
 - (c) in subsection (3)—
 - (i) in paragraph (a), for the words "the owner or person entitled to the interests and the community body" there is substituted "the crofting community body and, as the case may be, the owner, the tenant or the person entitled to the sporting interests";
 - (ii) in paragraph (b), for the word "or" there is substituted " , the tenant's right or the sporting";
 - (d) in subsection (4)—
 - (i) after the words "to the crofting community body" there is inserted "or as the case may be the tenant is not able to assign his interest to that body"; and
 - (ii) after the word "granted" there is inserted "or assignment is effected";
 - (e) in subsection (5), for the word "or" there is substituted " , the tenant's interest or the sporting";
 - (f) in subsection (6), for the words "immediately before title is granted to the crofting community body in pursuance of this section shall, on the recording of that title" there is substituted "or tenant's interest immediately before—
 - (a) title is granted to the crofting community body; or
 - (b) the tenant's interest is assigned to that body,in pursuance of this section shall, on the recording of that title or assignment";
 - (g) after subsection (7) there is inserted—

"(7A) Where such a security also burdens a tenant's interest other than the tenant's interest assigned to the crofting community body, the security shall not, by virtue of subsection (6) above, cease to burden that other interest.";
 - (h) in subsection (8)—
 - (i) after the word "owner" there is inserted " , or as the case may be to the tenant,"; and
 - (ii) for the word "or" there is substituted " , tenant's interest or sporting"; and
 - (i) in subsection (9), at the end there is added "or as the case may be to the tenant as consideration for the interest of the tenant over the land".
- (12) In section 88 (assessment of value of croft land etc.)—
- (a) in subsection (1)—

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- (i) for the words “sporting interests of a kind which is similar to the land” there is substituted “interests of a kind which is similar to the land, tenant’s interest”; and
 - (ii) after the words “value of the land” there is inserted “, tenant’s interest”;
- (b) in subsection (4)—
 - (i) after the words “of land” there is inserted “, the interest of a tenant over land”;
 - (ii) in paragraph (a), for the words “or person entitled to the interests or of the crofting community body which is exercising its right to buy the land or” there is substituted “, of the tenant, of the person entitled to the sporting interests or of the crofting community body which is exercising its right to buy the land, tenant’s interest or sporting”;
- (c) in subsection (5)—
 - (i) for the word “or”, where it first occurs, there is substituted “, tenant’s interest or sporting”; and
 - (ii) after the word “land”, where it occurs for the second time, there is inserted “, interest”;
- (d) in subsection (6)—
 - (i) for the word “or”, where it first occurs, there is substituted “, a tenant’s interest or sporting”;
 - (ii) in paragraph (b), for the words “or interests, including” there is substituted “, a tenant’s interest or sporting interests, including (in the case of land or sporting interests)”; and
 - (iii) in paragraph (c), for the word “or” there is substituted “, tenant’s interest or sporting”;
- (e) in subsection (7), for the word “or”, in each place it occurs, there is substituted “, a tenant’s interest or sporting”;
- (f) in subsection (9)—
 - (i) for the words “person entitled to the” there is substituted “as the case may be the tenant, or the person entitled to the sporting”;
 - (ii) for the word “or”, where it occurs for the second time, there is substituted “, tenant’s interest or sporting”; and
 - (iii) after the word “land”, where it occurs for the third time, there is inserted “, interest”;
- (g) in subsection (10)—
 - (i) for the words “person entitled to the” there is substituted “as the case may be the tenant, or the person entitled to the sporting”;
 - (ii) for the word “or”, where it occurs for the second time, there is substituted “the tenant’s interest or the sporting”; and
- (h) for subsection (12) there is substituted—
 - “(12) The valuer shall, within the period set out in subsection (13) below, notify Ministers, the crofting community body and as the case may be the owner of the land, the tenant or the person entitled to the sporting interests, of the assessed value of the land, tenant’s interest or sporting interests; and if there is a determination under section 88A(1) below shall within that period notify the crofting community body and the tenant of the determination.”.

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- (13) In section 89 (compensation)—
- (a) in subsection (1), after the words “sporting interests” there is inserted “(and in the case of an application made by virtue of section 69A(2) above a tenant)”; and
 - (b) in subsection (3), for the words “or person entitled to the” there is substituted “, the tenant or the person entitled to the sporting”.
- (14) In section 90(2)(a) (grants towards crofting community bodies' liabilities to pay compensation), after the word “land” there is inserted “, the interest of a tenant over land”.
- (15) In section 91 (appeals)—
- (a) in subsection (1), after the word “relates” there is inserted “(and in the case of an application made by virtue of section 69A(2) above the tenant)”;
 - (b) in subsection (2)(b), after the word “land” there is inserted “, lease”;
 - (c) in subsection (4), after the word “land” there is inserted “or tenant’s interest”; and
 - (d) in subsection (6), after the word “land” there is inserted “which is the subject of the application (or as the case may be over which the tenancy has been created)”.
- (16) In section 92 (appeals to Land Court: valuation)—
- (a) in subsection (1)—
 - (i) after the word “or”, where it first occurs, there is inserted “as the case may be the tenant or the”;
 - (ii) for the word “or”, where it occurs for the second time, there is substituted “, tenant’s interest or sporting”; and
 - (iii) at the end there is added “; and if the valuer has made a determination under section 88A(1) above the tenant and that body may so appeal against the determination.”;
 - (b) in subsection (3), for the word “interests” there is substituted “as the case may be of the tenant’s interest or the sporting interests and may substitute its own determination for any determination under section 88A(1) above.”; and
 - (c) in each of subsections (4) and (7), after the word “valuation” there is inserted “or determination”.
- (17) In section 95 (avoidance of disposal other than to crofting community)—
- (a) for subsection (1) there is substituted—

“(1) It is not competent for the owner of the land, or as the case may be the tenant or the person entitled to the sporting interests, to which an application under section 73 above relates—

 - (a) to dispose of the land or sporting interests; or
 - (b) to assign the tenant’s interest,

after the consent date to any person other than the crofting community body which made the application.”; and
 - (b) in subsection (3), for the word “or”, where it occurs for the second time, there is substituted “, tenant’s interest or sporting”.
- (18) In section 96(b) (limitation on effect of Part 3 of Land Reform (Scotland) Act 2003), after the word “land” there is inserted “(or an interest created over land)”.