

Crofting Reform etc. Act 2007

2007 asp 7

PART 2

CROFTS

20 Reorganisation schemes

- (1) The 1993 Act is amended as follows.
- (2) In section 38 (reorganisation schemes)—
 - (a) in subsection (1), after the words “prepare a” there is inserted “provisional”;
 - (b) after subsection (1) there is inserted—

“(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.”;
 - (c) for subsection (3) there is substituted—

“(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;

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- (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.”;
- (d) in subsection (4)—
 - (i) after the words “reorganisation scheme”, there is inserted “, or provisional draft or draft of such a scheme,”; and
 - (ii) after the words “the scheme” there is inserted “ or, as the case may be, of the provisional draft or draft,”; and
- (e) for subsections (5) to (7), there is substituted—
 - “(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.
 - (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
 - (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

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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;
 - (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, 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).”

(3) After that section, there is inserted—

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“38A Appeal to Land Court: special provision as respects reorganisation schemes

- (1) Any crofter who is the tenant of a croft situated in the township in relation to which a reorganisation scheme is made or the landlord of any such croft or the owner of any common grazing associated with the township or the owner of any land included in the scheme by virtue of subsection (3)(a) of section 38 of this Act may, within 42 days after the Commission serve a copy of the reorganisation scheme on him under subsection (8)(b) of that section, appeal by way of stated case, on one or more of the grounds mentioned in section 52A(3) of this Act, to the Land Court against—
- (a) the Commission's decision to reorganise the township; or
 - (b) the scheme.
- (2) For the purposes of this section, the references in section 52A(3) to a “direction” and to “making” a direction are to be construed as including, respectively, references to a reorganisation scheme and to preparing such a scheme.
- (3) In an appeal under this section, the Court may—
- (a) confirm the decision and the scheme;
 - (b) confirm the decision and require the Commission to—
 - (i) make, by a date specified by the Court, such modifications to the scheme as the Court directs; and
 - (ii) serve a copy of the modified scheme on each of the persons mentioned in section 38(10) of this Act; or
 - (c) revoke the Commission's decision.”.
- (4) In section 39 (putting schemes into effect)—
- (a) for subsection (1), there is substituted—

“(1) The Commission shall not take any steps in discharge of their duties or powers under this section in relation to a reorganisation scheme until (whichever first occurs)—

 - (a) the period of 42 days mentioned in section 38A(1) of this Act has elapsed without any appeal to the Land Court under that section being made; or
 - (b) every such appeal timeously made is—
 - (i) decided and, where by virtue of subsection (3)(b)(i) of section 38A of this Act the Land Court has required modifications to be made to the scheme, those modifications have been made and the Commission have complied with subsection (3)(b)(ii) of that section; or
 - (ii) abandoned.

(1A) The Commission—

 - (a) shall put into effect a reorganisation scheme—
 - (i) prepared by them under section 38(8)(a); or
 - (ii) where by virtue of subsection (3)(b)(i) of section 38A of this Act the Land Court has required modifications

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to be made to the scheme, of which they have served a copy by virtue of subsection (3)(b)(ii) of that section; and

- (b) may do all such things as are required for that purpose.”;
- (b) in subsection (3), for the words “shall, on a reorganisation scheme being confirmed by the Secretary of State,” there is substituted “ may ”;
- (c) after subsection (5) there is inserted—
- “(5A) Subsection (3A) of section 6 of this Act applies in relation to subsection (5) above as it applies in relation to the proviso to subsection (3) of that section.”;
- (d) in subsection (7), the words “, on the scheme being confirmed by the Secretary of State,” are repealed;
- (e) in subsection (8)—
- (i) for the words “Secretary of State shall, on confirming the scheme,” there is substituted “ Commission shall ”; and
- (ii) at the end of paragraph (b), there is inserted “ , and shall send a copy of each notice served by them under this subsection to the Scottish Ministers ” ;
- (f) in subsection (10)(b), for the words “of the confirmation of the scheme is served on him under paragraph 7 of Schedule 4 to this Act” there is substituted “ is served on him under subsection (6) above ”.

(5) Schedule 4 (confirmation of schemes by Scottish Ministers etc.) is repealed.

Commencement Information

II S. 20 in force at 25.6.2007 by S.S.I. 2007/269, art. 2, Sch.

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