



Crofting Reform etc. Act 2007

2007 asp 7

PART 7

GENERAL AND MISCELLANEOUS

General

33 Appeal to Land Court and jurisdiction of that court

(1) Before section 53 of the 1993 Act there is inserted—

“52A Appeal to Land Court: general

- (1) An appeal shall lie to the Land Court, on one or more of the grounds mentioned in subsection (3) below, against—
 - (a) any decision, determination or direction of; or
 - (b) the imposition of a condition by,
the Commission on an application made to them under this Act.
- (2) The appeal—
 - (a) is to be made by way of stated case, at the instance of the applicant or of any person with an interest in the application; and
 - (b) must be brought within 42 days after the Commission dispose of the application.
- (3) The grounds are that the Commission, in reaching their decision or as the case may be in determining as they did, in making their direction or in imposing the condition in question—
 - (a) erred on a point of law;
 - (b) made a finding as to a fact material to the decision, determination, direction or imposition but did not have sufficient evidence on which to base that finding;
 - (c) acted contrary to natural justice,
 - (d) took into account certain irrelevant or immaterial considerations;
 - (e) failed to take into account certain relevant or material considerations;

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- (f) exercised their discretion in an unreasonable manner.
- (4) In an appeal under subsection (1) above the Court may—
 - (a) confirm the decision, determination, direction or imposition;
 - (b) direct the Commission to come to a different decision, make a different determination or direction or impose a different (or no) condition; or
 - (c) remit the case to the Commission without so directing them.
- (5) Subsections (1) to (4) above also apply, but with such modifications as are necessary, to—
 - (a) a granting or withholding of approval under section 23(3); or
 - (b) a variation, withdrawal, imposition or revocation under section 50B(11),
 of this Act.
- (6) Subsections (1), (2) and (4) above do not apply where an appeal lies under section 10(4B), 25(8) or 38A of this Act.
- (7) In subsections (1) to (4) above, “decision” does not include a decision under section 58A of this Act as to whether or not to intervene and “determination” does not include any determination by the Commission that an objection under subsection (4) of that section is frivolous, vexatious or unreasonable.”
- (2) In section 53 of the 1993 Act (jurisdictional provisions)—
 - (a) in subsection (1), after paragraph (d) there is added—
 - “(e) the question—
 - (i) whether any of the grounds mentioned in subsection (2A) of section 50 of this Act as grounds for refusing consent applied for under subsection (1) of that section is made out; or
 - (ii) whether conditions subject to which any such consent is given are reasonable”;
 - (b) in the proviso to subsection (1), for paragraph (ii) (and the word “or” immediately preceding that paragraph) there is substituted—
 - “(ii) (other than on a reference made to it by the Commission) any question arising by virtue of an application to the Commission under this Act; or
 - (iii) any other question (other than a question of law), if it is a question decided by the Scottish Ministers or the Commission in the discharge of any of their respective functions under this Act.”; and
 - (c) in subsection (2), for the words “this Act” there is substituted “subsection (1) above”.
- (3) In Schedule 1 to the 1993 Act (provisions as to the Crofters Commission), at the end there is added—

“Appeals to the Land Court etc.

- 14 The Commission may do anything which appears to them to be necessary or expedient for the preparation of a stated case in an appeal to the Land

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Court under this Act; and without prejudice to that generality may make rules prescribing procedures to be complied with, and by whom, in such preparation.

- 15 The Commission may be a party to any such appeal or in any proceedings on a question coming before that Court on an application under section 53(1) of this Act.”.