

CROFTING REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 3 – Duties of Crofters and Owner-Occupier Crofters

Commission consent for absence from croft

Section 35: Consent for absence from croft

82. This section inserts new sections 21B, 21C and 21D into the 1993 Act. These introduce a new concession for both owner-occupier and tenant crofters to be absent from their crofts with the permission of the Commission. This is done on the understanding that there may be valid reasons for absence. Under the 1993 Act, absent owner-occupiers could be required to submit letting proposals and absent tenants could have their tenancies terminated for failing to reside on, or near, their croft.
83. Section 21B permits the Commission to consent to tenant crofters and owner-occupier crofters being ordinarily resident further than 32 kilometres from the croft. This consent can be granted where the Commission has received an application under subsection (1) (which, in the case of an application by a tenant crofter, has also been copied to the landlord of the croft under subsection (2)). Subsection (3) of new section 21B states that the Commission may grant consent only if they consider there is a good reason for a tenant or owner-occupier crofter to be ordinarily resident further than 32 kilometres from the croft. Subsection (4) empowers the Commission to attach conditions, including a time limit, to any consent that it grants in this context.
84. Subsection (5) of new section 21B requires the Commission to make a decision on any application to be absent within 28 days of the date of application. The appeal provisions in section 52A of the 1993 Act apply to the Commission's decision under subsection (5). Subsection (6) requires the Commission to inform the applicant and, where the applicant is a tenant crofter, the landlord of their decision and the reasons for making it.
85. New section 21C permits an applicant to whom the Commission has granted time-limited consent to be absent from the croft to apply to extend the duration of such an absence.
86. New section 21D permits an applicant to whom the Commission has granted conditional consent, other than a condition time-limiting the consent, to make an application to have the condition varied.