

CROFTING REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 4 – Further Amendments of the 1993 Act

Letting of vacant crofts

Section 44: Requirements to submit proposals for re-letting crofts

117. **Section 44** amends section 11 of the 1993 Act, which covers transfers of crofts on intestacy. Subsection (2) requires that, where the Commission declare the croft vacant under section 11, a notice to the landlord under that section will require the landlord to submit proposals for re-letting the croft before the expiry of four months beginning on the day on which notice is given.
118. **Section 44** also amends section 23 of the 1993 Act, which covers vacant crofts and the re-letting of crofts declared vacant under section 11. Subsection (4) amends section 23(5) so that, where the croft is vacant, the landlord is required to submit letting proposals to the Commission within two months from notice being given under section 23(5). Subsection (5) inserts new subsection (5ZA), (5ZB) and (5ZC) after section 23. These new subsections limit letting proposals to a maximum of 3 potential tenants when a croft becomes vacant and set out a clear process and timescales for submission and consideration of these proposals. These replace and clarify some of what was formerly provided in section 23(5), namely that, if no proposals are submitted within 2 months, the Commission must proceed to invite applications from prospective tenants under subsection (5B) and let the croft under subsection (5C). Subsection (5ZB) also provides that, if proposals are submitted within 2 months (or where, following the death of a crofter, a croft is declared vacant under section 11(8) of the 1993 Act (Intestacy), within 4 months), the Commission have a further month within which to approve or reject those proposals. Subsection (5ZC) provides that the Commission must proceed under subsections (5B) and (5C) if no proposals are accepted by them within two months of the notice being given under subsection (5).
119. Subsection (6) substitutes a new subsection (5A) for the existing subsection (5A) of section 23 of the 1993 Act. New subsection (5A) relates to the case where a croft is, under section 11(8) of the 1993 Act, declared vacant following the death of a crofter. It makes equivalent provision to that made by new subsection (5ZC) in relation to vacant crofts, except that in this case the period within which the landlord must submit re-letting proposals is 4 months.

Section 45: Application to decroft where action being taken to re-let vacant croft

120. **Section 45** inserts a new subsection (3A) into section 24 of the 1993 Act (which deals with decrofting in the case of resumption or vacancy). New subsection (3A) will allow the Commission not to consider a decrofting application made by the landlord under section 24(3) if the Commission have given notice under section 11(8)(a) or 23(5) requiring re-letting proposals to be submitted and the period within which the

*These notes relate to the Crofting Reform (Scotland) Act
2010 (asp 14) which received Royal Assent on 6 August 2010*

proposals must be submitted has not expired. It also allows them not to consider such an application where, because no proposals have been submitted before the period has expired or, where proposals have been submitted, because none have been approved, the Commission are proceeding under section 23(5B) and (5C). So these provisions limit consideration by the Commission of decrofting applications in specific circumstances.