



Crofting Reform (Scotland) Act 2010

2010 asp 14

PART 2

THE CROFTING REGISTER

Rectification and indemnity

16 Rectification of the register

- (1) The Keeper—
 - (a) may rectify the register in accordance with subsections (2) to (4);
 - (b) must rectify the register on being ordered to do so by any court.
- (2) Where a mistake in the register arises as a consequence of a mistake in an application for registration (not being a mistake to which subsection (3) applies), the Keeper may rectify the register to correct the mistake on the application of the person who made that application (the “original applicant”).
- (3) Where a mistake in the register arises as a consequence of a mistake made by the Commission when forwarding an application for registration under section 7(3)(b) or when submitting (on their own behalf) an application for registration, the Keeper may so rectify the register on the application of—
 - (a) in either case, the Commission; or
 - (b) in the case of an application so forwarded, the original applicant.
- (4) Where a mistake in the register arises as a consequence of a mistake by the Keeper when making up or amending a registration schedule or making consequential amendments to the register, the Keeper may so rectify the register whether on the application of any person to do so or not.
- (5) Without prejudice to any enactment or rule of law, the powers of the court include power to make orders for the purposes of subsection (1)(b).
- (6) Where the Keeper rectifies the register under this section, the Keeper must give written notice of the rectification to—
 - (a) any person appearing to the Keeper to be affected by it;
 - (b) the Commission.

Status: This is the original version (as it was originally enacted).

(7) In this section—

“court” means the Court of Session, the Land Court or the sheriff;

“mistake” includes something mistakenly omitted and something mistakenly included;

“rectify”, in relation to the register, means to correct any inaccuracy in it by entering something in, amending something in or removing something from the register; and “rectification” is to be construed accordingly.

17 Rectification following first registration

(1) This section applies where, in the case of a first registration (other than of a new croft or other than as a result of the taking of the step mentioned in section 4(4)(p))—

- (a) the Keeper rectifies the register under section 16(1)(a) to correct a material inaccuracy; and
- (b) the register is rectified before the end of the period mentioned in section 12(5) (no application under section 14(1) having been made).

(2) The Keeper must issue a fresh certificate of registration and sections 9(4) to (6), 10, 12 and 14 apply to that certificate as they apply to a certificate of registration issued under section 9(2).

(3) If the rectification of the register was to correct a mistake arising as a consequence of a mistake by the Keeper when making up or amending a registration schedule or making consequential amendments to the register, the Keeper is liable for any costs incurred by any person in connection with complying with section 12.

(4) If the rectification of the register was to correct a mistake arising as a consequence of a mistake made by the Commission when forwarding the application for registration under section 7(3)(b) or when submitting (on their own behalf) an application for registration, the Commission are liable for any costs incurred by any person in connection with complying with section 12.

(5) In this section—

“material inaccuracy” has the meaning given by section 7(8);

“mistake” has the meaning given by section 16(7).

18 Indemnity in respect of loss

(1) A person who suffers loss as a result of a matter mentioned in subsection (2) is to be indemnified by the Keeper in respect of that loss.

(2) Those matters are—

- (a) a mistake in the register made by the Keeper when making up or amending a registration schedule or making consequential amendments in the register, the correction of which would require rectification of the register;
- (b) a rectification of the register under section 16(1) to correct such a mistake;
- (c) the refusal of the Keeper to make such a rectification;
- (d) the loss or destruction of any document while lodged with the Keeper;
- (e) a mistake such as is mentioned in paragraph (a) in any certificate of registration or in any information given by the Keeper in writing or in such other manner as may be prescribed by rules made under section 19(1).

- (3) But the Keeper is not liable to indemnify a person under subsection (1) in relation to a mistake such as is mentioned in subsection (2)(a) if—
- (a) the existence of the mistake was, or ought to have been, known to—
 - (i) the person seeking indemnity for loss; or
 - (ii) any person acting as solicitor or other legal adviser of that person, at the time of registration (construed as including completion of registration under section 9 or 10 and notification under section 21);
 - (b) the mistake relates to an inaccuracy in the delineation of any boundaries shown in a registration schedule, being an inaccuracy which could not have been rectified by reference to the ordnance map or to such other map as the Keeper, for the purposes of section 11(2)(a), considers appropriate; or
 - (c) the loss was caused by the fraudulent or careless act or omission of the person seeking indemnity for loss.
- (4) No indemnity is payable in relation to a mistake such as is mentioned in subsection (2)
- (a) until a decision has been made about whether to rectify the register for the purpose of correcting the mistake; and the loss suffered as a result of that mistake is to be determined in the light of that decision.
- (5) A person who, as a result of a mistake mentioned in subsection (6)—
- (a) takes a step mentioned in subsection (7); and
 - (b) suffers a loss in so doing,
- is to be indemnified by the Commission in respect of that loss.
- (6) That mistake is a mistake in the register arising as a consequence of a mistake made by the Commission when forwarding the application for registration under section 7(3)
- (b) or when submitting (on their own behalf) the application for registration.
- (7) Those steps are—
- (a) the submitting of a fresh application for registration;
 - (b) the making of an application for rectification of the register under section 16(3).
- (8) Subsection (5) applies whether or not the register is rectified to correct the mistake referred to in that subsection.
- (9) In this section, “mistake” has the meaning given by section 16(7).