



Crofting Reform (Scotland) Act 2010

2010 asp 14

PART 4

FURTHER AMENDMENTS OF THE 1993 ACT

Commission's approval and consent

48 Obtaining Commission approval or consent

- (1) Section 58A of the 1993 Act (obtaining Commission approval or consent) is amended as follows.
- (2) At the beginning of subsection (3), insert “Subject to subsection (5B),”.
- (3) In subsection (4)—
 - (a) the word “or” immediately preceding paragraph (c) is repealed; and
 - (b) at the end of that paragraph insert “; or
 - (d) any other person the Commission consider has a relevant interest in the application,”.
- (4) After subsection (5) insert—

“(5A) Despite subsection (4), the Commission may accept an objection submitted after the end of the 28-day period if they consider there is a good reason why the objection is late.

(5B) Where the application is an application for consent to divide a croft under section 9 made by an executor under section 10(4A)—

 - (a) subsections (3) to (5A);
 - (b) in subsection (6), the words “When those 28 days have elapsed”;
 - (c) in subsection (12A), paragraph (b); and
 - (d) subsections (16) and (17),

do not apply.”.
- (5) In subsection (6)—
 - (a) after “Commission” insert “must, subject to subsection (6A), decide the application by”; and

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(b) for paragraphs (a) and (b) substitute—

- “(a) granting it;
- (b) granting it subject to conditions; or
- (c) refusing it.”.

(6) After subsection (6) insert—

“(6A) Where—

- (a) the application for consent to divide the croft is made by an executor under section 10(4A); and
- (b) it relates to a bequest of the tenancy of the part of the croft comprising the site of the dwelling-house on or pertaining to the croft to one natural person and the tenancy of the remaining part to one other such person,

the Commission must grant the application (whether or not subject to conditions).”.

(7) For subsections (7) to (10) substitute—

“(7) In considering their decision on the application, the Commission must have regard to the following—

- (a) in the case of an application relating to a croft—
 - (i) whether any person is or will be ordinarily resident on, or within 32 kilometres of, the croft;
 - (ii) whether the croft is being or will be cultivated or put to such other purposeful use as is consented to under section 5C(4);
- (b) the interests of the estate which comprises the land to which the application relates;
- (c) the interests of the crofting community in the locality of that land;
- (d) the sustainable development of that crofting community;
- (e) the interests of the public at large;
- (f) any objections received under subsection (4) or (5A);
- (g) any plan of the Commission approved and published under section 2C;
- (h) any other matter which the Commission consider relevant.”.

(8) In subsection (11), for the words “; and references in this section to their intervening are to their proceeding to such a determination” substitute “or grant it subject to conditions”.

(9) In subsection (12), the words “and give such notification as is mentioned in subsection (10)(a) above” are repealed.

(10) After subsection (12) insert—

“(12A) The Commission must, before the expiry of the period of 21 days beginning with the day on which the decision under subsection (6) is taken, give notice of that decision—

- (a) to the applicant;
- (b) to any person who objected under subsection (4) or (5A); and
- (c) where appropriate and in so far as not already given notice under paragraph (a) or (b), to—

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- (i) the crofter;
- (ii) the owner-occupier crofter;
- (iii) the landlord; and
- (iv) as the case may be, the grazings committee.”.

(11) Subsections (13) to (15) are repealed.

(12) After section 58A insert—

“58B Variation of conditions on approval or consent

- (1) This section applies where the Commission grant, subject to conditions, an application under section 58A for their approval or consent.
- (2) The Commission may, on an application to them by the person who applied for the approval or consent (the “original applicant”), modify the conditions imposed by—
 - (a) varying a condition;
 - (b) removing a condition;
 - (c) adding a condition,as they consider appropriate.
- (3) Where the Commission so modify conditions they must, before the expiry of the period of 14 days beginning with the day on which they do so, give notice of their decision to—
 - (a) the original applicant;
 - (b) any other person who was given written notification under section 58A(12A) of the decision to grant the approval or consent subject to conditions; and
 - (c) any other person the Commission consider has a relevant interest.
- (4) Subject to subsection (5), subsections (2) to (5A), (16) and (17) of section 58A apply to an application under subsection (2) of this section as they apply to an application under subsection (1) of that section.
- (5) Where the original applicant is an executor who applied under section 10(4A) for consent to divide a croft under section 9, subsections (3) to (5A), (16) and (17) do not apply.”.