

*Status: Point in time view as at 30/11/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Crofting Reform (Scotland) Act 2010. (See end of Document for details)*

## SCHEDULE 1

*(introduced by section 1(3))*

### THE CROFTING COMMISSION

#### Commencement Information

- I1** Sch. 1 in force at 1.10.2011 for specified purposes by [S.S.I. 2011/334, art. 3\(1\)\(a\)\(2\)](#), **Sch. Pt. 1** (with arts. 4, 8)
- I2** [Sch. 1](#) in force at 1.4.2012 in so far as not already in force by [S.S.I. 2011/334, art. 3\(1\)\(b\)\(2\)](#), **Sch. Pt. 2**

PROSPECTIVE

## “SCHEDULE 1

*(introduced by section 1(6))*

### THE CROFTING COMMISSION

#### *Status*

- 1 (1) The Commission are a body corporate.
- (2) The Commission are not to be regarded as a servant of the Crown, nor are they to be regarded as having any status, privilege or immunity of the Crown.
- (3) The Commission's members and employees are not to be regarded as civil servants.
- (4) The Commission's property is not to be regarded as property of, or held on behalf of, the Crown.

#### *General powers*

- 2 (1) The Commission may do anything which they consider is necessary or expedient for the purpose of exercising or in connection with their functions.
- (2) In particular, the Commission may—
- (a) co-operate with any person in the exercise of the Commission's functions;
  - (b) with the approval of the Scottish Ministers, acquire and dispose of land and other property;
  - (c) enter into contracts;
  - (d) charge, in respect of such of their functions as may be prescribed by the Scottish Ministers, such reasonable amounts as may be so prescribed.

#### *Membership*

- 3 (1) Subject to sub-paragraph (2), the Commission are to consist of no fewer than five and no more than nine members as follows—
- (a) no fewer than two persons appointed by the Scottish Ministers (“appointed members”); and

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- (b) no more than six persons elected by virtue of paragraph 7 (“elected members”).
- (2) The majority of members are to be elected members unless, by virtue of the appointment of a person by the Scottish Ministers under paragraph 6(3) or 9(3), such a majority cannot be maintained.
- (3) The Scottish Ministers must select a member to chair the Commission (the “convener”).
- (4) The Scottish Ministers may delegate to the Commission the duty to select a member to chair the Commission.
- (5) A delegation under sub-paragraph (4) may be varied or revoked at any time.
- (6) The Scottish Ministers may, by order, modify sub-paragraph (1) above to alter—
  - (a) the number of members;
  - (b) the number of appointed members;
  - (c) the number of elected members,
 but such an order may not contain provision to the effect that the majority of members would not be elected members.

*Appointed members: eligibility*

- 4 (1) In appointing members of the Commission, the Scottish Ministers must—
  - (a) ensure—
    - (i) that each person appointed has knowledge of crofting;
    - (ii) where sub-paragraph (2) applies, that at least one person appointed can speak the Gaelic language; and
    - (iii) where sub-paragraph (3) applies, that at least one person appointed appears to Ministers to represent the interests of landlords of crofts; and
  - (b) be satisfied that no person appointed has any financial or other interest that would be likely to affect prejudicially the exercise by that person of the functions of a member.
- (2) This sub-paragraph applies where none of the elected members can speak the Gaelic language.
- (3) This sub-paragraph applies where the Scottish Ministers consider that none of the elected members represents the interests of landlords of crofts.
- (4) The fact that a person is—
  - (a) a crofter;
  - (b) a landlord of a croft;
  - (c) an owner-occupier of a croft;
  - (d) a cottar; or
  - (e) a member of the family of any such person,
 does not of itself constitute an interest mentioned in sub-paragraph (1)(b).
- (5) No person may be appointed as a member of the Commission if that person is, or has at any time during the previous year been, a member of—
  - (a) the House of Commons;

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- (b) the Scottish Parliament;
- (c) the European Parliament.

*Appointed members: terms of appointment*

- 5 Subject to this schedule, an appointed member holds and vacates office on such terms and conditions as the Scottish Ministers determine.

*Resignation and cessation of membership*

- 6 (1) A person may resign office as a member of the Commission at any time by notice in writing to the Scottish Ministers.
- (2) A person who ceases to be a member of the Commission (other than by virtue of being removed under paragraph 9) is eligible to be a member of the Commission again (whether by re-appointment or otherwise)
- (3) Where—
- (a) an elected member resigns office under sub-paragraph (1) or otherwise ceases to be a member of the Commission (other than by virtue of being removed under paragraph 9); and
  - (b) is not replaced by a person such as is mentioned in sub-paragraph (4) (whether because of the person's refusal to accept office as a member or otherwise),
- the Scottish Ministers may appoint (in addition to any person appointed under paragraph 3) a person to be a member of the Commission.
- (4) The person referred to in sub-paragraph (3)(b) is a person who—
- (a) was a candidate in the election by virtue of which the elected member mentioned in sub-paragraph (3)(a) held office as a member;
  - (b) polled, in that election, fewer votes than the elected member so mentioned; and
  - (c) by virtue of regulations made under paragraph 7, may hold office as a member of the Commission.

*Elected members: regulations*

- 7 (1) The Scottish Ministers may, by regulations, make provision for or in connection with the election of persons as members of the Commission.
- (2) Without prejudice to the generality of sub-paragraph (1), the regulations may, in particular, make provision relating to—
- (a) the voting system to be used for such elections;
  - (b) the frequency and timing of such elections;
  - (c) the conduct of such elections;
  - (d) offences relating to such elections;
  - (e) the constituencies (including boundaries) in which such elections may be held
  - (f) persons who are eligible to vote in such elections (including by reference to the person's age);
  - (g) the appointment of an individual to act as the returning officer for each constituency;
  - (h) such an individual's—

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- (i) functions;
  - (ii) fees and expenses;
  - (iii) tenure and vacation of office;
  - (i) subject to sub-paragraph (5), persons who may, and may not, be candidates in elections such as are mentioned in sub-paragraph (1) (including by reference to the person's age);
  - (j) the number of members of the Commission who may be returned from each constituency;
  - (k) vacancies amongst elected members, including the circumstances in which a person who polled fewer votes in such an election than the person who polled most votes may hold office as a member of the Commission.
- (3) Regulations under sub-paragraph (1) may not make provision creating an offence such as is mentioned in sub-paragraph (2)(d) that is punishable—
- (a) on conviction on indictment, with imprisonment for a term exceeding 2 years;
  - (b) on summary conviction, with—
    - (i) imprisonment for a term exceeding 12 months; or
    - (ii) a fine exceeding level 5 on the standard scale.
- (4) In the case of an offence which is triable either on indictment or summarily, the reference in sub-paragraph (3)(b)(ii) to a fine exceeding level 5 on the standard scale is to be construed as a reference to the statutory maximum.
- (5) In making provision such as is mentioned in sub-paragraph (2)(i), the regulations must provide that the persons who may be candidates in elections such as are mentioned in sub-paragraph (1) may include persons who
- (a) are aged 16 or over; and
  - (b) have been nominated by a person eligible to vote in such elections.
- (6) Before making regulations under sub-paragraph (1), the Scottish Ministers must consult such persons or bodies as they think appropriate on—
- (a) the constituency boundaries to be used; and
  - (b) the persons who are eligible to vote,
- in elections such as are mentioned in sub-paragraph (1).

*Remuneration, allowances and pensions*

- 8 (1) The Scottish Ministers must pay to the members of the Commission such remuneration and allowances as Ministers may determine.
- (2) The Scottish Ministers may—
- (a) pay (or make arrangements for the payment of);
  - (b) make payments towards the provision of; or
  - (c) provide and maintain schemes (whether contributory or not) for the payment of,
- such pensions, allowances and gratuities to or in respect of such members and former members of the Commission as Ministers may determine.
- (3) The reference in sub-paragraph (2) to pensions, allowances and gratuities includes pensions, allowances and gratuities paid by way of compensation for loss of office.

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### *Removal of members*

- 9 (1) The Scottish Ministers may remove a member of the Commission from office, by giving notice in writing to the member, if satisfied that the member—
- (a) is insolvent;
  - (b) has been convicted of a criminal offence in relation to which the member has been sentenced to imprisonment for a period of 3 months or more;
  - (c) is incapacitated by physical illness or mental disorder;
  - (d) has been absent from meetings of the Commission for a period exceeding 6 months without the permission of the convener;
  - (e) is otherwise unable or unfit to exercise the functions of a member or is unsuitable to continue as a member.
- (2) In sub-paragraph (1)(a), a member is insolvent when—
- (a) the member's estate is sequestrated;
  - (b) the member is adjudged bankrupt;
  - (c) a voluntary arrangement proposed by the member is approved;
  - (d) the member enters into a debt arrangement programme under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) as the debtor;
  - (e) the member grants a trust deed for creditors.
- (3) Where—
- (a) an elected member is removed from office under sub-paragraph (1); and
  - (b) is not replaced by a person such as is mentioned in sub-paragraph (4) (whether because of the person's refusal to accept office as a member or otherwise),
- the Scottish Ministers may appoint (in addition to any person appointed under paragraph 3) a person to be a member of the Commission.
- (4) The person referred to in sub-paragraph (3)(b) is a person who—
- (a) was a candidate in the election by virtue of which the removed member held office as a member;
  - (b) polled, in that election, fewer votes than the removed member; and
  - (c) by virtue of regulations made under paragraph 7, may hold office as a member of the Commission.

### *Chief executive, staff and employees*

- 10 (1) The Scottish Ministers must, after consultation with the convener of the Commission, appoint a chief executive of the Commission on such terms and conditions as Ministers may determine.
- (2) The Scottish Ministers may provide the services of such staff to the Commission as the Commission consider appropriate.
- (3) The Commission may appoint such employees as the Commission consider appropriate.
- (4) The Scottish Ministers may give directions to the Commission as to the appointment of employees under sub-paragraph (3).
- (5) Such directions may in particular relate to
- (a) the number of appointments;
  - (b) the terms and conditions of employment.

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- (6) The Commission must comply with any directions given under sub-paragraph (4).
- (7) The Commission may, with the approval of the Scottish Ministers—
- (a) pay (or make arrangements for the payment of);
  - (b) make payments towards the provision of; or
  - (c) provide and maintain schemes (whether contributory or not) for the payment of,
- such pensions, allowances and gratuities to or in respect of such of their employees, or former employees, as the Commission may determine.
- (8) The reference in sub-paragraph (7) to pensions, allowances and gratuities includes pensions, allowances and gratuities paid by way of compensation for loss of office.

#### *Quorum*

- 11 (1) The quorum of the Commission is five members.
- (2) Where there are three or more elected members, the quorum must include no fewer than three such members.

#### *Committees*

- 12 (1) The Commission must establish—
- (a) an audit committee; and
  - (b) such other committees as they consider appropriate.
- (2) The audit committee and any other committee of the Commission must comply with any directions given to it by the Commission.
- (3) The Commission may appoint as members of any of their committees persons who are not members of the Commission.
- (4) But no committee established under sub-paragraph (1) may consist entirely of such persons.
- (5) The Commission must pay to a person appointed under sub-paragraph (3) such remuneration and allowances as the Scottish Ministers may determine.

#### *Procedure*

- 13 (1) The Commission may regulate—
- (a) their own procedure; and
  - (b) the procedure of any of their committees (including any quorum).
- (2) The convener must, if present, chair meetings of the Commission and any of their committees.
- (3) If the convener is not available to chair a meeting of the Commission or a committee, the convener is to appoint another member of the Commission to chair the meeting.
- (4) The person chairing a meeting of the Commission or any committee has a casting vote.
- (5) The Commission must keep a record of their and their committees' meetings and decisions.

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- (6) The validity of any proceedings of the Commission or of any of their committees is not affected by any vacancy in membership nor by any defect in the appointment of a member.

*Members' interests*

- 14 (1) A member of the Commission or any other person who is in any way directly or indirectly interested in any matter brought up for consideration at a meeting of the Commission or of any committee of the Commission must disclose the nature of that interest to the meeting.
- (2) Such a disclosure must be recorded in the minutes of the meeting.
- (3) A member or other person making such a disclosure must not take part in any deliberation or decision of the Commission or of any committee of the Commission with respect to the matter to which the disclosure relates.

*Delegation of powers*

- 15 (1) The Commission may authorise—
- (a) any of their members;
  - (b) any of their committees;
  - (c) their chief executive;
  - (d) any person whose services are provided to them by the Scottish Ministers;
  - (e) any of their employees,
- to exercise such of the Commission's functions (and to such extent) as they may determine.
- (2) Sub-paragraph (1) does not affect the responsibility of the Commission for the exercise of their functions.

*Local assessors*

- 16 (1) The Commission may appoint a panel of suitable persons (“assessors”) to act, when required to do so by the Commission, as assessors for the purpose of assisting the Commission in the local execution of their functions under this Act.
- (2) The Commission must, before exercising their power under sub-paragraph (1), publish details of—
- (a) the methods to be used for the appointment of assessors; and
  - (b) the functions to be exercised by assessors.
- (3) In exercising their power under sub-paragraph (1), the Commission must—
- (a) provide information to crofting communities about—
    - (i) the appointment of assessors; and
    - (ii) the functions that assessors exercise; and
  - (b) keep under review—
    - (i) the methods to be used for the appointment of assessors; and
    - (ii) the functions to be exercised by assessors.
- (4) Assessors must be ordinarily resident in the crofting counties or in an area designated under section 3A(1)(b) of this Act.

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- (5) The Commission may make payments to assessors in respect of any—
- (a) loss of earnings;
  - (b) expenses (including travelling and subsistence expenses),
- necessarily suffered or incurred by them for the purpose of enabling them to exercise their functions as such assessors.

#### *Location of office*

- 17 The Commission—
- (a) must have their principal office premises in the crofting counties;
  - (b) must not determine where those premises are to be located without that location being approved by the Scottish Ministers; and
  - (c) must comply with any direction as to the location of those premises given by Ministers.

#### *Finance*

- 18 (1) The Scottish Ministers may—
- (a) pay grants;
  - (b) make loans,
- to the Commission of such amounts as Ministers may determine.
- (2) Any such grant or loan may be paid or, as the case may be, made, on such terms and subject to such conditions (including, in the case of a loan, conditions as to repayment) as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers may, from time to time after any grant is paid or loan is made, vary the terms and conditions on which it was paid or, as the case may be, made.

#### *Accounts*

- 19 (1) The Commission must—
- (a) keep proper accounts and accounting records;
  - (b) prepare in respect of each financial year a statement of accounts.
- (2) The Commission must send the statement of accounts to the Scottish Ministers by such date as Ministers may direct.
- (3) The Commission must comply with any other directions which the Scottish Ministers may give them in relation to the matters mentioned in sub-paragraph (1).
- (4) The Scottish Ministers must, as soon as reasonably practicable after receiving a statement of accounts from the Commission—
- (a) send them to the Auditor General for Scotland for auditing; and
  - (b) lay the audited statement before the Scottish Parliament.
- (5) The Commission must make their audited statement of accounts available so that they may be inspected by any person.



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*Provision of information to Scottish Ministers*

- 20 The Commission must provide the Scottish Ministers with such information in respect of the exercise, or proposed exercise, of the Commission's functions as the Scottish Ministers may, from time to time, require.

*Transfer of property, rights and liabilities*

- 21 (1) Where the Scottish Ministers consider it necessary or expedient to do so to facilitate the exercise of functions by the Commission, they may transfer to the Commission any property, rights and liabilities to which Ministers are entitled or subject.
- (2) Property, rights and liabilities may be so transferred to the Commission whether or not they are otherwise capable of being transferred by the Scottish Ministers.”.

SCHEDULE 2

*(introduced by section 6)*

PERSONS RESPONSIBLE FOR APPLICATIONS FOR REGISTRATION

**Commencement Information**

**I3** Sch. 2 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

TABLE 1

FIRST REGISTRATION

<i>Step</i>	<i>Person</i>
The making of an application as mentioned in section 4(4)(a)	The crofter making the application
The making of an application as mentioned in section 4(4)(b)	The crofter who is the tenant of the croft at the time the application is made
The making of an application as mentioned in section 4(4)(c)	The crofter making the application
The making of an application as mentioned in section 4(4)(d)(i)	Where— (a) the application is made by a crofter, the crofter; (b) the application is made by an executor under section 10(4A) of the 1993 Act, the executor
The making of an application as mentioned in section 4(4)(d)(ii)	The owner-occupier crofter making the application
The giving of a notice as mentioned in section 4(4)(e)	The person who gave notice in accordance with subsection (2) or (2A) of section 10 of the 1993 Act

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The giving of a notice as mentioned in section 4(4)(f)	The person by whom the tenancy of the croft is transferred
The making of an application as mentioned in section 4(4)(g)	The landlord making the application
The making of an order as mentioned in section 4(4)(h)	The relevant person (within the meaning of section 21A(6) of the 1993 Act) who applied for the order
The making of an application as mentioned in section 4(4)(i)	The landlord making the application
The re-letting of a croft as mentioned in section 4(4)(j)	The person to whom the croft is re-let
The letting of a croft as mentioned in section 4(4)(k)	The person to whom the croft is let
The making of an application as mentioned in section 4(4)(l)(i)	The landlord making the application
The making of an application as mentioned in section 4(4)(l)(ii)	The landlord making the application
The making of an application as mentioned in section 4(4)(l)(iii)	The crofter making the application
The division of a croft as mentioned in section 4(4)(m)	The Commission
The letting of a croft as mentioned in section 4(4)(n)	The person to whom the croft is let
[ <sup>F1</sup> The making of an application as mentioned in section 4(4)(l)(iia)]	The owner-occupier crofter making the application]
The making of an application as mentioned in section 4(4)(o)	The owner-occupier crofter making the application
The preparation of a reorganisation scheme as mentioned in section 4(4)(p)	The Commission
The making of an application as mentioned in section 4(4)(q)	The crofter making the application

**Textual Amendments**

**F1** Words in Sch. 2 inserted (retrospective to 1.10.2011) by [Crofting \(Amendment\) \(Scotland\) Act 2013](#) (asp 10), ss. 3, 6, [Sch. para. 2\(6\)\(a\)](#)

TABLE 2

REGISTRATION OF REGISTERED CROFTS

*Step*

*Person*

*Status: Point in time view as at 30/11/2012.*

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The enlargement of a croft as mentioned in section 5(3)(a)	The crofter who applied for the direction enlarging the croft under section 4(4) of the 1993 Act
The exchange of a croft as mentioned in section 5(3)(b)	The exchanging crofters jointly
The assignation of a croft as mentioned in section 5(3)(c)	The person to whom the croft is assigned
The division of a croft as mentioned in section 5(3)(d)(i)	Where— (a) the application for division was made by a crofter, the crofter; (b) that application was made by an executor under section 10(4A) of the 1993 Act, the executor
The division of a croft as mentioned in section 5(3)(d)(ii)	The owner-occupier crofter who applied for the division
The giving of a notice as mentioned in section 5(3)(e)	The person who gave notice in accordance with subsection (2) or (2A) of section 10 of the 1993 Act
The transfer of a crofter's interest in a lease of a croft as mentioned in section 5(3)(f)	The executor who gave notice under section 11(2) of the 1993 Act
The giving of authorisation as mentioned in section 5(3)(g)	The landlord who applied for that authorisation
The granting of an extension of the period for which resumption of a croft is authorised as mentioned in section 5(3)(h)	The landlord who applied under section 20(1C) of the 1993 Act for that extension
The making of a determination as mentioned in section 5(3)(i)	The landlord who applied for that determination
The making of an order as mentioned in section 5(3)(j)	The person who applied for that order
The letting of the croft as mentioned in section 5(3)(k)(i)	The landlord who applied for approval to the letting
The re-letting of the croft as mentioned in section 5(3)(k)(ii)	The landlord whose proposals for re-letting were approved under section 23(5ZB) of the 1993 Act
The letting of the croft as mentioned in section 5(3)(k)(iii)	The person to whom the croft is let
The letting of the croft as mentioned in section 5(3)(k)(iv)	The person to whom the croft is let
The making of a direction as mentioned in section 5(3)(l)	The [F <sup>2</sup> person] who applied for the direction
The division of a croft as mentioned in section 5(3)(m)	The Commission
The letting of a croft as mentioned in section 5(3)(n)	The person to whom the croft is let

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The preparation of a reorganisation scheme as mentioned in section 5(3)(o)	The Commission
The apportionment of a part of a common grazing as mentioned in section 5(3)(p)	The crofter who applied for the apportionment
The bringing to an end of an apportionment as mentioned in section 5(3)(q)	The person who applied under section 52(12) of the 1993 Act

#### Textual Amendments

- F2** Word in Sch. 2 substituted (retrospective to 1.10.2011) by [Crofting \(Amendment\) \(Scotland\) Act 2013 \(asp 10\)](#), ss. 3, 6, [Sch. para. 2\(6\)\(b\)](#)

### SCHEDULE 3

*(introduced by section 28)*

#### APPLICATION OF ACT TO COMMON GRAZINGS

- 1 Section 8 applies to an application for registration forwarded under subsection (4) of section 26 or submitted under subsection (8) of that section as it applies to an application for registration mentioned in section 8, with the following modifications—
- (a) in subsection (1), for “section 7(3)(b)” substitute “ subsection (4) of section 26 or submitted under subsection (8) of that section ”;
  - (b) for “croft”, in each place where it appears in subsections (2), (3) and (5), substitute “ common grazing ”;
  - (c) in subsection (3), for “common grazing”, in each place where it appears, substitute “ croft ”.

#### Commencement Information

- I4** [Sch. 3 para. 1](#) in force at 30.11.2012 by [S.S.I. 2012/288](#), art. 3(1)(b)(2), [Sch. 1 Pt. 2](#)

- 2 Section 9 applies to registration relating to a common grazing as it applies to registration relating to a croft, with the following modifications—
- (a) for “croft”, in each place where it appears in subsections (1), (2) and (5), substitute “ common grazing ”;
  - (b) in subsection (3), for “the crofter of the croft” substitute “ any grazings committee, or grazings constable, appointed in respect of the common grazing ”;
  - (c) subsection (4) is omitted.

#### Commencement Information

- I5** [Sch. 3 para. 2](#) in force at 30.11.2012 by [S.S.I. 2012/288](#), art. 3(1)(b)(2), [Sch. 1 Pt. 2](#)

- 3 Section 10 applies to a first registration of a common grazing as it applies to a first registration of a croft, with the following modifications—

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- (a) for “croft”, where it appears in each of subsections (1) and (2), substitute “common grazing”;
- (b) subsections (3) to (8) are omitted.

#### Commencement Information

**I6** Sch. 3 para. 3 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 4 Section 11 applies to a common grazing as it applies to a croft, with the following modifications—
- (a) for “croft”, in each place where it appears in subsections (1), (2)(a), (3), (4) and (7), substitute “common grazing”;
  - (b) for paragraph (b) of subsection (2) substitute—
    - “(b) the name and address of the owner of the common grazing;
    - (ba) details of any croft of which a right in the common grazing forms part (including, where the croft is registered, a reference to the registration schedule of the croft);
    - (bb) in relation to a croft such as is mentioned in paragraph (ba) which is unregistered, the name and designation of, as the case may be—
      - (i) any tenant of the croft;
      - (ii) any owner-occupier crofter of the croft;
    - (bc) the name and designation of any other person who holds a right in the common grazing;”;
  - (c) in subsection (4), for “common grazing”, in each place where it appears, substitute “croft”.

#### Commencement Information

**I7** Sch. 3 para. 4 in force at 30.10.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(a)(2), Sch. 1 Pt. 1

**I8** Sch. 3 para. 4 in force at 30.11.2012 in so far as not already in force by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 5 Section 12 applies to a certificate of registration relating to a common grazing received under section 9(2) as it applies to a certificate of registration relating to a croft received under section 9(2) or, as the case may be, a copy of such a certificate received under section 9(4), with the following modifications—
- (a) in subsection (3)—
    - (i) for “croft”, where it appears in each of paragraphs (a) and (b), substitute “common grazing”;
    - (ii) paragraphs (c) and (d) are omitted;
    - (iii) after paragraph (d) insert—
      - “(da) the grazings committee or grazings constable (or, where there is no such committee or constable, any person of whom the Commission are aware who holds a right in the common grazing);”;
    - (iv) for “croft”, where it appears in each of paragraphs (e), (f) and (h), substitute “land”;

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- (v) in paragraph (g) for “of any adjacent croft” substitute “, or any other tenant, of any adjacent land”;
- (vi) paragraph (i) is omitted;
- (vii) in paragraph (j), the words “(not being land which is an adjacent croft)” are omitted;
- (b) in subsection (4)—
  - (i) for “croft”, where it appears in each of paragraphs (a) and (b), substitute “ common grazing ”;
  - (ii) in paragraph (c), for “11(2)(b)” substitute “ paragraphs (b), (bb) and (bc) of section 11(2) (as it applies to common grazings) ”;
  - (iii) after paragraph (c), insert—
    - “(ca) the details of any crofts entered in the registration schedule in accordance with paragraph (ba) of section 11(2) (as it applies to common grazings);”;
- (c) for “croft”, in each place where it appears in subsection (8), substitute “ common grazing ”.

**Commencement Information**

- I9** Sch. 3 para. 5 in force at 30.10.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(a)(2), Sch. 1 Pt. 1
- I10** Sch. 3 para. 5 in force at 30.11.2012 in so far as not already in force by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 6 Section 13 applies to a notice required to be affixed under section 12(8)(b) to a common grazing as it applies to such a notice relating to a croft, with the modification that for “croft”, in each place where it appears in subsections (2) and (3)(a), there is substituted “ common grazing ”.

**Commencement Information**

- I11** Sch. 3 para. 6 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 7 Section 14 applies to registration of a common grazing (other than a new common grazing) as it applies to registration of a croft, with the modification that for “croft”, where it appears in each of subsections (4)(a) and (b), (5), (6) and (7), there is substituted “ common grazing ”.

**Commencement Information**

- I12** Sch. 3 para. 7 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 8 Section 15 applies to a resumed common grazing as it applies to a resumed croft, with the following modifications—
- (a) for “croft”, in each place where it appears in subsections (1)(a), (2) and (4), substitute “ common grazing ”;
  - (b) subsections (1)(b) and (3) are omitted.

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**Commencement Information**

**I13** Sch. 3 para. 8 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 9 Section 16 applies to rectifications relating to common grazings as it applies to rectifications relating to other matters, with the modification that in subsection (3) for “7(3)(b)” there is substituted “26(4)”.

**Commencement Information**

**I14** Sch. 3 para. 9 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 10 Section 17 applies to a rectification of the register relating to a common grazing as it applies to such rectifications relating to other matters, with the following modifications—
- (a) in subsection (1), for “croft” substitute “common grazing”;
  - (b) subsection (4) is omitted.

**Commencement Information**

**I15** Sch. 3 para. 10 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 11 Section 18 applies to an entitlement to indemnity relating to a common grazing as it applies to an entitlement to indemnity relating to other matters, with the modification that in subsection (6) for “7(3)(b)” there is substituted “26(4)”.

**Commencement Information**

**I16** Sch. 3 para. 11 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 12 Section 19 applies to the making of rules and orders in relation to common grazings as it applies to the making of rules and orders in relation to other matters, with the modification that in subsection (1)(e), for “crofts” there is substituted “common grazings”.

**Commencement Information**

**I17** Sch. 3 para. 12 in force at 30.10.2012 by S.S.I. 2012/288, art. 3(1)(a)(2), Sch. 1 Pt. 1

- 13 Section 20 applies to an act or omission of the Keeper relating to a common grazing as it applies to an act or omission of the Keeper relating to any other matter.

**Commencement Information**

**I18** Sch. 3 para. 13 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

- 14 Section 21 applies to an amendment to the registration schedule of a common grazing, or to an amendment to the register relating to a common grazing, as it applies to an amendment to the registration schedule of a croft, or as the case

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may be, to an amendment to the register relating to a croft with the following modifications—

- (a) in subsection (1)—
  - (i) for “croft or owner-occupied croft” substitute “ common grazing ”;
  - (ii) for “5(1)” substitute “ 25(1) ”;
- (b) in subsection (2), for “the crofter, or as the case may be owner-occupier crofter, of the croft” substitute “ the owner of the common grazing and to any grazings committee, or grazings constable, of the common grazing ”;
- (c) subsection (3) is omitted;
- (d) in subsection (4)—
  - (i) “26K(9)” is omitted;
  - (ii) in paragraph (a), for “croft” substitute “ common grazing ”.

**Commencement Information**

**I19** Sch. 3 para. 14 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

SCHEDULE 4

*(introduced by section 55)*

MINOR AND CONSEQUENTIAL MODIFICATIONS

*Small Landholders (Scotland) Act 1911*

- 1 (1) The Small Landholders (Scotland) Act 1911 (c.49) is amended as follows.
- (2) In section 10 (additional statutory conditions), after subsection (2) insert—
- “(2A) Where the holding of a new holder as mentioned in the further proviso to subsection (2) is situated in an area designated by order under section 3A(1) (b) of the Crofters (Scotland) Act 1993 (c.44) (new crofts), the reference to the Board in that subsection is to be construed as a reference to the Crofting Commission.”.
- (3) In section 16 (amendment of law as to enlargement of holdings)—
- (a) in the proviso to subsection (1)—
    - (i) after “Board”, where it first occurs, insert “ (or, in the case of applications mentioned in subsection (1A), the Crofting Commission) ”; and
    - (ii) after “Board”, where it second occurs, insert “ (or, as the case may be, the Crofting Commission) ”; and
  - (b) after that subsection, insert—
    - “(1A) The applications referred to in subsection (1) which are to be made to the Crofting Commission are those for enlargement of holdings situated in an area designated by order under section 3A(1)(b) of the Crofters (Scotland) Act 1993 (c.44) (new crofts).”.
- (4) In section 17 (amendment of law as to vacant holdings)—
- (a) the existing provision becomes subsection (1) of that section; and



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(b) after that subsection add—

“(2) In the application of subsection (1) to holdings situated in an area designated by order under section 3A(1)(b) of the Crofters (Scotland) Act 1993 (c.44) (new crofts), references to the Board are to be construed as references to the Crofting Commission.”.

(5) In section 32 (provisions as to statutory small tenants)—

(a) in subsection (3), after “Board” insert “ or, in the case of a holding mentioned in subsection (3A), the Crofting Commission ”;

(b) after that subsection, insert—

“(3A) The holding referred to in subsection (3) is a holding situated in an area designated by order under section 3A(1)(b) of the Crofters (Scotland) Act 1993 (c.44) (new crofts).”; and

(c) after subsection (12), insert—

“(12A) In the application of subsection (12) to landlords and tenants of holdings situated as mentioned in subsection (3A), the reference to the Board is to be construed as a reference to the Crofting Commission.”.

#### **Commencement Information**

**I20** Sch. 4 para. 1 in force at 22.12.2010 by S.S.I. 2010/437, art. 3, Sch. (with art. 4)

#### *Succession (Scotland) Act 1964*

2 (1) The Succession (Scotland) Act 1964 (c.41) is amended as follows.

(2) In section 16 (provisions relating to leases)—

(a) in subsection (2A)—

(i) paragraph (a) and the word “and” immediately following it are repealed; and

(ii) in paragraph (b), for the words from “other” to “subsection)”, substitute “ lease (other than the lease of a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993 (c.44)) ”;

(b) in subsection (3)(b)—

(i) at the beginning insert “ subject to subsection (3A) ”; and

(ii) sub-paragraph (ib) is repealed; and

(c) after subsection (3) insert—

“(3A) In the case of an interest in an agricultural lease which is a lease of a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993 (c.44), the period for the purposes of subsection (3)(b) is 24 months.”.

(3) Section 16A(application of section 58A of the 1993 Act to applications for consent under section 16(2A)) is repealed.

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### Commencement Information

**I21** Sch. 4 para. 2 in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), Sch. Pt. 1 (with art. 4)

### *Crofters (Scotland) Act 1993*

- 3 (1) The 1993 Act is amended as follows.
- (2) In section 1 (constitution and general functions of the Crofters Commission), subsections (4) and (5) are repealed.
- (3) In section 2 (particular powers and duties of the Commission), the following are repealed—
- (a) in subsection (1)—
    - (i) the word “developing”; and
    - (ii) in paragraph (a), the words from “, the improvement” to the end; and
  - (b) subsections (2) and (4).
- (4) In section 3A (new crofts), paragraph (a) of subsection (12) is repealed.
- (5) In section 4A (exchange of crofts)—
- (a) after subsection (2), insert—
 

“(2A) Where consent is applied for under subsection (1) in relation to an unregistered croft (or any part of such a croft), the Commission—

    - (a) may not grant that consent unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for consent was made;
    - (b) need not, during that 6 month period, consider the application for consent until an application for first registration of the croft is submitted.

(2B) In relation to a registered croft, or any part of such a croft, (other than a first registered croft)—

    - (a) any consent of the Commission to the exchange of the croft expires at the end of the period of 3 months beginning with the date on which such consent was given unless an application for registration of the exchange of the croft is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
    - (b) the exchange takes effect on the date of registration.”; and
  - (b) subsection (3) is repealed.
- (6) In section 5 (the statutory conditions), subsections (1A), (2A), (2B) and (7) to (10) are repealed.
- (7) In section 5A (complaint of breach of statutory conditions), in subsection (2)(a)(ii), for “section 5B” substitute “ section 26C ”.
- (8) In section 8 (assignment of croft)—
- (a) after subsection (1) insert—

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- “(1A) Where a crofter applies for consent to assign a croft by virtue of subsection (1), the crofter must
- (a) notify the Commission as to where the proposed assignee would intend, following any such assignation, ordinarily to reside; and
  - (b) provide the Commission with any other information it requests in connection with the application.
- (1B) Where consent is applied for under subsection (1) in relation to an unregistered croft, the Commission—
- (a) may not grant that consent unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for consent was made;
  - (b) need not, during that 6 month period, consider the application for consent until an application for first registration of the croft is submitted.”;
- (b) subsection (2) is repealed;
- (c) in subsection (6), at the beginning, insert “ In relation to an unregistered croft or a first registered croft, ”; and
- (d) after that subsection insert—
- “(6A) In relation to a registered croft (other than a first registered croft)—
- (a) any consent of the Commission given under this section to an assignation expires at the end of the period of 3 months beginning with the date on which such consent was given unless an application for registration of the assignation is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
  - (b) the assignation takes effect on the date of registration.”.
- (9) In section 9 (division of croft)—
- (a) after subsection (1) insert—
- “(1A) Where consent is applied for under subsection (1) in relation to an unregistered croft, the Commission—
- (a) may not grant that consent unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for consent was made;
  - (b) need not, during that 6 month period, consider the application for consent until an application for first registration of the croft is submitted.”;
- (b) subsection (2) is repealed; and
- (c) for subsection (3), substitute—
- “(3) In relation to a registered croft (other than a first registered croft)—
- (a) any consent of the Commission given under this section to a division of the croft expires at the end of the period of 3 months beginning with the date on which such consent was given unless an application for registration of the division

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- is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
- (b) the division takes effect on the date of registration.
- (3A) The Keeper must make up and maintain a registration schedule in accordance with section 11 of the 2010 Act in respect of a new croft created by a division under this section.”.
- (10) In section 11 (intestacy)—
- (a) in subsection (1)—
- (i) for “furnish” substitute “ give notice of the transfer containing ”; and
- (ii) for “the landlord shall notify the Commission accordingly” substitute “ at the same time as giving the notice the executor must send a copy of the notice to the Commission ”;
- (b) after that subsection insert—
- “(1A) A transfer such as is mentioned in subsection (1) takes effect in relation to an application for registration of—
- (a) the giving of notice under that subsection by virtue of section 4 of the 2010 Act; or
- (b) the transfer by virtue of section 5 of that Act, on the date of registration.”;
- (c) in subsection (2)—
- (i) for “12” substitute “ 24 ”; and
- (ii) for “furnished to the landlord particulars of any transferee” substitute “ given the landlord any notice ”;
- (d) in subsection (3)—
- (i) in paragraph (c), for “10(2)” substitute “ 10 ”; and
- (ii) paragraph (d) is repealed; and
- (e) in subsection (4)—
- (i) for “12” substitute “ 24 ”; and
- (ii) for “furnished to the landlord particulars of any transferee” substitute “ given the landlord any notice ”.
- (11) In section 20 (resumption of croft or part of croft by landlord)—
- (a) after subsection (1) insert—
- “(1ZA) Where an application is made under subsection (1) to resume an unregistered croft (or any part of such a croft), the Land Court—
- (a) may not authorise the resumption unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application to resume the croft was made;
- (b) need not, during that 6 month period, consider the application to resume the croft until an application for first registration of the croft is submitted.
- (1ZB) In relation to a registered croft, or part of such a croft, (other than a first registered croft)—
- (a) any authorisation under subsection (1) expires at the end of the period of 3 months beginning with the date on which

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such authorisation was given unless an application for registration of the giving of that authorisation is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the resumption takes effect on the date of registration.

(1ZC) In its application to a registered common grazing, subsection (1ZB) is to be construed as if the reference in paragraph (a) to section 5 of the 2010 Act were a reference to section 25 of that Act.”;

(b) after subsection (1C), insert—

“(1CA) In relation to a registered croft, or part of such a croft—

(a) the granting of any extension under subsection (1C) expires at the end of the period of 3 months beginning with the date on which the extension was granted unless an application for registration of the granting of the extension is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the extension takes effect on the date of registration.

(1CB) In its application to an extension relating to a registered common grazing, subsection (1CA) is to be construed as if the reference in paragraph (a) to section 5 of the 2010 Act were a reference to section 25 of that Act.”;

(c) in subsection (1F), for the words “(1B) to (1D)” substitute “ (1B), (1C) and (1D) ”; and

(d) after subsection (1F) add—

“(1G) In relation to a registered croft, or part of such a croft—

(a) any determination under subsection (1F) expires at the end of the period of 3 months beginning with the date on which the determination was made unless an application for registration of the making of the determination is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the conversion of the temporary resumption into an ordinary resumption takes effect on the date of registration.

(1H) In its application to a determination relating to a registered common grazing, subsection (1G) is to be construed as if the reference in paragraph (a) to section 5 of the 2010 Act were a reference to section 25 of that Act.”.

(12) In section 21A (reversion of resumed land)—

(a) after subsection (1) insert—

“(1A) In relation to land which, before being resumed as mentioned in subsection (1), was an unregistered croft (or part of such a croft), an order under that subsection does not take effect until the croft is registered by virtue of section 4 of the 2010 Act.

(1B) In relation to land which, before being resumed as mentioned in subsection (1), was a registered croft (or part of such a croft)—

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- (a) an order under that subsection expires at the end of the period of 3 months beginning with the date on which the order was made unless an application for registration of the making of the order is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
  - (b) the order takes effect on the date of registration.
- (1C) In its application to a registered common grazing, subsection (1B) is to construed as if the reference in paragraph (a) to section 5 of the 2010 Act were a reference to section 25 of that Act.”; and
- (b) subsection (3) is repealed.
- (13) Section 22 (absentee crofters) is repealed.
- (14) In section 23 (vacant crofts)—
- (a) after subsection (3) insert—
    - “(3ZA) Where approval is applied for under subsection (3) in relation to an unregistered croft (or any part of such a croft), the Commission—
    - (a) may not grant that approval unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for approval was made;
    - (b) need not, during that 6 month period, consider the application for approval until an application for first registration of the croft is submitted.
  - (3ZB) In relation to a registered croft, or any part of such a croft, (other than a first registered croft)—
    - (a) any approval under subsection (3) expires at the end of the period of 3 months beginning with the date on which such approval was granted unless an application for registration of the letting of the croft (or part of the croft) is made by virtue of section 5 of the 2010 Act before the expiry of that period;
    - (b) the letting of the croft (or part of the croft) takes effect on the date of registration.”;
  - (b) subsection (3A) is repealed;
  - (c) in subsection (4)—
    - (i) after “above” insert “, subsection (5ZD) or subsection (5D), ”;
    - (ii) for “subsection (3) of section 22” substitute “ subsections (5) and (6) of section 26H ”;
    - (iii) for “it applies” substitute “ they apply ”; and
    - (iv) for “that subsection” substitute “ subsection (5) of that section ”;
  - (d) after subsection (5ZC) (inserted by section 44 of this Act) insert—
    - “(5ZD) Any re-letting of an unregistered croft in accordance with proposals submitted under subsection (5) is null and void unless an application for first registration of the croft is submitted before the expiry of the period of 3 months beginning with the date of the re-letting.
    - (5ZE) In relation to a registered croft—

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- (a) any approval under subsection (5ZB) of proposals to re-let the croft under subsection (5) expires at the end of the period of 3 months beginning with the date on which such approval was given unless an application for registration of the re-letting of the croft is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
  - (b) the re-letting of the croft takes effect on the date of registration.”;
  - (e) after subsection (5C) insert—
    - “(5D) Any letting of an unregistered croft pursuant to a determination under subsection (5C) is null and void unless an application for first registration of the croft is submitted before the expiry of the period of 3 months beginning with the date of the letting.
    - (5E) In relation to a registered croft—
      - (a) any determination under subsection (5C) to let the croft to an applicant is, at the end of the period of 3 months beginning with the date on which the determination was made, to be treated as if it had not been made unless an application for registration of the re-letting of the croft is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
      - (b) the letting of the croft takes effect on the date of registration.”;
    - (f) in subsection (6), for “one month” substitute “ 28 days ”;
    - (g) in subsection (10), for the words “by the tenant of the croft” substitute “by—
      - (a) the tenant of the croft;
      - (b) the owner-occupier crofter of the croft;
      - (c) the subtenant of a sublet to which section 27 applies; or
      - (d) the tenant of a let to which section 29A applies.”;
    - (h) in subsection (12), at the beginning insert “ Subject to subsection (12A), ”; and
    - (i) after that subsection insert—
      - “(12A) Where the owner-occupier is an owner-occupier crofter, this section and section 24 have effect as if—
        - (a) the owner-occupier crofter were required under subsection (1) of this section, within one month of becoming such an owner-occupier crofter, to give notice to the Commission of that fact; and
        - (b) the reference to a landlord in subsection (2), and any reference to a landlord in section 24, included a reference to an owner-occupier crofter.”.
- (15) In section 24 (decrofting where croft vacant for 6 months)—
  - (a) in subsection (2), for “section 22(1)” substitute “ section 26H(1) ”;
  - (b) after that subsection insert—
    - “(2ZA) But the Commission may not make a direction in accordance with subsection (2) in relation to an unregistered croft—

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- (a) unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which notice under that subsection is given; and
- (b) until such an application is submitted.”; and
- (c) after subsection (3A) (inserted by section 45 of this Act) insert—
  - “(3B) Where a direction is applied for under subsection (3) in relation to an unregistered croft, the Commission—
    - (a) may not make such a direction unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for the direction is made;
    - (b) need not, during that 6 month period, consider the application for the direction until an application for first registration of the croft is submitted.
  - (3C) In relation to a registered croft (other than a first registered croft)—
    - (a) a direction under subsection (2) or (3) (other than one under subsection (3) given by virtue of section 25(4) of this Act) expires at the end of the period of 3 months beginning with the date on which the direction was made unless an application for registration of the making of the direction is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
    - (b) the direction takes effect on the date of registration.”.
- (16) In section 25 (provisions supplementary to section 24(3))—
  - (a) in subsection (4), at the beginning insert “ Subject to subsections (4ZB) and (4ZD), ”; and
  - (b) after that subsection insert—
    - “(4ZA) Where a direction is applied for under subsection (4) in relation to an unregistered croft—
      - (a) the Commission may not make such a direction unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application for the direction is made;
      - (b) the Commission need not, during that 6 month period, consider the application for the direction until an application for first registration of the croft is submitted.
    - (4ZB) Where a direction under section 24(3) is made by virtue of an application under subsection (4) in relation to a first registered croft—
      - (a) the crofter who applied for the direction must, within 3 months of acquiring land or a site as mentioned in that subsection, notify the Commission of the acquisition;
      - (b) the direction—
        - (i) does not have effect unless the conditions in subsection (4) are satisfied;



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- (ii) takes effect on the giving of notification of the direction under section 10(8)(c) of the 2010 Act.
- (4ZC) Subsection (4ZD) applies to a direction under section 24(3) which is made—
  - (a) by virtue of an application under subsection (4); and
  - (b) in relation to a registered croft (other than a first registered croft).
- (4ZD) The direction—
  - (a) does not have effect unless—
    - (i) the conditions mentioned in subsection (4) are satisfied; and
    - (ii) an application for registration of the making of the direction is made by virtue of section 5 of the 2010 Act before the expiry of the period of 5 years mentioned in that subsection;
  - (b) takes effect, if those conditions and the condition mentioned in paragraph (a)(ii) are satisfied on or before the date of registration, on the date of registration.”.
- (17) In section 26 (removal of crofter)—
  - (a) in subsection (1)—
    - (i) the word “or” immediately preceding paragraph (b) is repealed; and
    - (ii) after that paragraph insert “, or
    - (c) a crofter has breached any duty mentioned in section 5AA, 5B or 5C,”;
  - (b) after that subsection insert—
    - “(1A) For the purposes of paragraph (c) of subsection (1)—
      - (a) where a crofter has sublet the croft by virtue of a lease to which section 27 applies, the crofter is deemed to comply with the duties mentioned in that paragraph (other than the duty not to misuse the croft) if the crofter's subtenant complies with the duties;
      - (b) where the Commission have granted consent under section 21B, the crofter is deemed to comply with the duty mentioned in section 5AA.”; and
    - (c) in subsection (3), for “5B” substitute “ 26H ”.
- (18) In section 27 (subletting by crofters), subsection (3) is repealed.
- (19) In section 30 (compensation to crofter for improvements)—
  - (a) in subsection (6A)(a), for “paragraph 3(b) of Schedule 2 to” substitute “ section 5C(2)(a)(ii) of ”; and
  - (b) in subsection (6B), for “5(7)(a)” substitute “ 5C(4)(a) ”.
- (20) In section 31(1)(a) (permanent improvements made on crofts for purposes of subsidiary or auxiliary occupations), for “paragraph 3 of Schedule 2 to” substitute “ section 5C(2)(a)(ii) of ”.
- (21) In section 38 (reorganisation schemes), in subsection (10), after paragraph (c) insert—

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- “(ca) each owner-occupier crofter whose croft is situated in the township;”.
- (22) In section 38A (appeal to Land Court: special provision as respects reorganisation schemes), in subsection (1), after “the landlord of any such croft or” insert “ any owner-occupier crofter whose croft is situated in the township or ”.
- (23) In section 39 (putting into effect of reorganisation schemes)—
- (a) in subsection (1A), at the beginning insert “ Subject to subsection (2A), ”;
  - (b) in subsection (2), at the beginning insert “ Subject to subsection (2B), ”; and
  - (c) after subsection (2), insert—
 

“(2A) Before putting into effect a reorganisation scheme which contains provision—

    - (a) forming a croft;
    - (b) making any change to, or in relation to, a croft,

the Commission must submit, in accordance with Part 2 of the 2010 Act, an application for registration of the croft so formed, the croft affected by the change or, as the case may be, the change to the croft.

(2B) The date appointed under subsection (2) for the putting into effect of any provision of a reorganisation scheme in respect of which an application for registration under subsection (2A) is made is to be the date of registration.”.
- (24) In section 40 (obtaining of information by Commission), after subsection (1) insert—
- “(1A) The information mentioned in subsection (1) above includes the age and date of birth of the owner or occupier of the holding or such other person or class of person as may be specified in the notice.”.
- (25) In section 41(2) (information to be entered in Register of Crofts)—
- (a) in paragraph (b), after “name” insert “ , age and date of birth ”; and
  - (b) in paragraph (cd)(ii), for “section 22(1)” substitute “ section 26H(1) ”.
- (26) In section 45(1) (former crofters and cottars who have acquired site of the dwelling-house)—
- (a) after paragraph (c) insert—
 

“(ca) an owner-occupier crofter;”;
  - (b) the words “for a period of 7 years from the date of acquisition from the landlord” are repealed.
- (27) In section 46 (owner-occupiers of like economic status as crofters and other persons) —
- (a) in subsection (1), after “gas supplies” insert “ for owner-occupier crofters and ”;
  - (b) in subsection (4)—
    - (i) for paragraph (a) substitute—
 

“(a) for owner-occupier crofters; and”;
    - (ii) after paragraph (d) insert “;
    - (e) for tenants of crofts or parts of crofts occupying under short leases granted as mentioned in section 29A,”; and

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- (c) in the words following paragraph (e) of that subsection (as inserted by sub-sub-paragraph (b)(ii))—
- (i) after “such” where it first occurs insert “ owner-occupied crofts and ”;
  - (ii) for “occupiers of crofts who are also the owners thereof,” substitute “ owner-occupier crofters, ”; and
  - (iii) for “and to subtenants of crofts or parts of crofts” substitute “ , to subtenants of crofts or parts of crofts and to tenants of crofts or parts of crofts occupying under such short leases ”.
- (28) In section 46A(1) (regulations concerning loans), after paragraph (b) insert—
- “(ba) owner-occupier crofters;”.
- (29) In section 48(3) (liability of crofters to meet expenditure incurred by grazings committees)—
- (a) after “29(2)” insert “ or 29A(9) ”;
  - (b) after “sublet” insert “ or, as the case may be, let ”;
  - (c) after “subtenant” insert “ or tenant ”; and
  - (d) after “subtenancy” insert “ or tenancy ”.
- (30) In section 50B (use of common grazing for other purposes), the following are repealed—
- (a) in subsection (6), the words “, in such manner as the Commission may require;” and
  - (b) subsections (7) to (15).
- (31) In section 52 (miscellaneous provisions as to common grazings, etc.)—
- (a) after subsection (1E) insert—
- “(1EA) Where the Commission make a determination under subsection (1E) that all or part of a person's share in a registered common grazing is terminated—
- (a) the Commission must, as soon as reasonably practicable after making the determination, submit an application for registration of the termination by virtue of section 25 of the 2010 Act;
  - (b) the termination takes effect on the date of registration.
- (1EB) Any apportionment of all or part of a person's share in a registered common grazing under subsection (1E) above takes effect, as respects an application for registration of the apportionment by virtue of section 25 of the 2010 Act, on the date of registration.”;
- (b) after subsection (3) insert—
- “(3A) In relation to a registered common grazing—
- (a) any apportionment of the common grazing under subsection (3) expires at the end of the period of 3 months beginning with the date on which the common grazing was so apportioned unless an application for registration of the apportionment is submitted by virtue of section 25 of the 2010 Act before the expiry of that period;
  - (b) the apportionment takes effect on the date of registration.”;

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- (c) after subsection (5) insert—
- “(5A) Where an application is made under subsection (4) by the crofter of an unregistered croft, the Commission—
- (a) may not apportion a part of the common grazing unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application to apportion a part of the common grazing was made;
- (b) need not, during that 6 month period, consider the application to apportion a part of the common grazing until an application for first registration of the croft is submitted.
- (5B) Where an application under subsection (4) by the crofter of a registered croft (other than a first registered croft) is granted—
- (a) the apportionment of a part of the common grazing expires at the end of the period of 3 months beginning with the date on which the part was so apportioned unless an application for registration of the apportionment is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;
- (b) the apportionment takes effect on the date of registration.
- (5C) In relation to a registered common grazing—
- (a) any apportionment of a part of the common grazing under subsection (4) expires at the end of the period of 3 months beginning with the date on which the part was so apportioned unless an application for registration of the apportionment is submitted by virtue of section 25 of the 2010 Act before the expiry of that period;
- (b) the apportionment of the part takes effect on the date of registration.
- (5D) But subsection (5C) does not apply to an apportionment which takes effect by virtue of subsection (5B).”;
- (d) after subsection (7) insert—
- “(7A) Any transfer by a person who holds a right in a registered common grazing of that right to another person takes effect, as respects an application for registration of the transfer by virtue of section 25 of the 2010 Act, on the date of registration.”;
- (e) after subsection (8) insert—
- “(8A) Subsection (5C) applies to an apportionment under subsection (8) of registered lands held runrig as it applies to an apportionment under subsection (4) of a part of a registered common grazing, with the modification that the reference to section 25 is to be construed as a reference to section 32.”;
- (f) after subsection (11) insert—
- “(11A) In relation to a registered common grazing—
- (a) any extension under subsection (11) of the period for which a part of a registered common grazing is apportioned ceases to have effect at the end of the period of 3 months beginning

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with the date on which the period was so extended unless an application for registration of the extension is submitted by virtue of section 25 of the 2010 Act before the expiry of that 3 month period;

(b) the extension takes effect on the date of registration.

(11B) Subsection (11A) applies to registered land held runrig as it applies to a registered common grazing, with the modification that the reference to section 25 is to be construed as a reference to section 32.”;

(g) after subsection (12) insert—

“(12A) Subsection (12B) applies to an application by the crofter of a registered croft (other than a first registered croft) made under subsection (12) to bring to an end an apportionment made in pursuance of subsection (4).

(12B) Where the application is granted—

(a) the granting of the application expires at the end of the period of 3 months beginning with the date of the granting unless an application for registration of the bringing to an end of the apportionment is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the bringing to an end of the apportionment takes effect on the date of registration.

(12C) Where it is determined under subsection (12)(b)(iii) that an apportionment of a registered common grazing is to come to an end, the apportionment comes to an end, as respects an application for registration of the bringing of it to an end by virtue of section 25 of the 2010 Act, on the date of registration.

(12D) But subsection (12C) does not apply to an apportionment the bringing to an end of which takes effect by virtue of subsection (12B).”;

(h) after subsection (14) insert—

“(14A) Any determination under subsection (14) takes effect, as respects an application for registration of the making of the determination by virtue of section 25 of the 2010 Act, on the date of registration.”; and

(i) in subsection (15), for “(14)” substitute “ (14A) ”.

(32) In section 52A (appeals)—

(a) after subsection (4) insert—

“(4A) The Court may, if it considers it appropriate in consequence of any decision on an appeal under subsection (1), order the Keeper to rectify the Crofting Register.”;

(b) subsection (5) is repealed;

(c) in subsection (6), the words “10(4B),” are repealed; and

(d) subsection (7) is repealed.

(33) In section 53 (jurisdictional provisions)—

(a) in the proviso to subsection (1), after paragraph (i) insert—

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“(ia) any question that may be raised under section 14(1) of the 2010 Act (including a question that could have been raised under that section had an application been made before the end of the period mentioned in section 12(5) of that Act);” and

(b) after subsection (2) insert—

“(3) The Court may, if it considers it appropriate in consequence of any determination under subsection (1), order the Keeper to rectify the Crofting Register.”.

(34) In section 56 (powers of entry and inspection), in subsection (1), after “Act” insert “ or, in the case of the Commission, by the 2010 Act ”.

(35) For section 60 (regulations) substitute—

**“60 Regulations and orders**

(1) Any power conferred by this Act on the Scottish Ministers to make regulations or orders is exercisable by statutory instrument.

(2) Subject to subsection (3), a statutory instrument containing such regulations or such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(3) No statutory instrument containing—

(a) an order under—

(i) section 2A(1);

(ii) section 5B(6);

(iii) section 19C(8);

(iv) paragraph 3(6) of schedule 1;

(b) regulations under paragraph 7(1) of schedule 1,

may be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.”.

(36) In section 61(1) (interpretation)—

(a) after the definition of “the 1997 Act”, insert—

““the 2010 Act” means the Crofting Reform (Scotland) Act 2010 (asp 14);”;

(b) in the definition of “the Commission”, for “Crofters” substitute “ Crofting ”;

(c) for the definitions of “croft” and “crofter” substitute—

““croft”—

(a) in relation to a croft other than one registered in the Crofting Register, has the meaning given by section 3;

(b) in relation to a croft registered in that register, has the meaning given by section 3ZA(2)(a);

“crofter”—

(a) in relation to a croft other than one registered in the Crofting Register, has the meaning given by section 3;

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- (b) in relation to a croft registered in that register, has the meaning given by section 3ZA(2)(c);”;
  - (d) after the definition of “croft land” insert—
    - ““cultivate” has the meaning given by section 5C(8);
    - “date of registration” (other than in section 3) is to be construed in accordance with section 8(5) of the 2010 Act;”;
  - (e) after the definition of “enactment” insert—
    - ““first registered croft” means a croft mentioned in section 5(2) of the 2010 Act;
    - “first registration”, in relation to an unregistered croft or unregistered owner-occupied croft, means the registration of the croft or owner-occupied croft in the Crofting Register;”;
  - (f) after the definition of “functions” insert—
    - ““Keeper” means the Keeper of the Registers of Scotland;”;
  - (g) in the definition of “landlord”—
    - (i) in paragraph (a), after “croft” where it first occurs insert “ other than one registered in the Crofting Register ”; and
    - (ii) after that paragraph insert—
      - “(aa) in the case of a croft registered in that register, the person for the time being entered in the registration schedule of the croft as the landlord of it;”;
  - (h) after the definition of “landlord” insert—
    - ““local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39);”;
  - (i) after the definition of “National Trust for Scotland” insert—
    - ““owner-occupied croft” and “owner-occupier's croft” have the meanings given by section 19B(5);
    - “owner-occupier crofter” is to be construed in accordance with section 19B(1) to (4);”;
  - (j) after the definition of “public notification” insert—
    - ““purposeful use” has the meaning given by section 5C(8);
    - “registered”, in relation to a croft, an owner-occupied croft or a common grazing, means registered in the Crofting Register; and
    - “unregistered” and other cognate expressions are to be construed accordingly;
    - “registration schedule” means the registration schedule of the croft made up and maintained under section 11(1) of the 2010 Act;”.
- (37) In Schedule 2 (the statutory conditions)—
- (a) paragraphs 3, 3A and 3B are repealed; and
  - (b) in paragraph 13, the definitions of “cultivate” and “purposeful use” are repealed.

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*Changes to legislation: There are currently no known outstanding effects for the Crofting Reform (Scotland) Act 2010. (See end of Document for details)*

### Commencement Information

- I22** Sch. 4 para. 3(1) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I23** Sch. 4 para. 3(2) in force at 1.4.2012 by S.S.I. 2011/334, art. 3(1)(b)(2), **Sch. Pt. 2**
- I24** Sch. 4 para. 3(3) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with arts. 4, 7)
- I25** Sch. 4 para. 3(4) in force at 22.12.2010 by S.S.I. 2010/437, art. 3, **Sch.** (with art. 4)
- I26** Sch. 4 para. 3(5)(a) in force at 30.11.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 para. 1(m)**)
- I27** Sch. 4 para. 3(5)(b) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I28** Sch. 4 para. 3(6)(7) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I29** Sch. 4 para. 3(8)(a) in force at 1.10.2011 for specified purposes by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I30** Sch. 4 para. 3(8)(b) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I31** Sch. 4 para. 3(8)(c)(d) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 para. 1(n)(o)**)
- I32** Sch. 4 para. 3(9)(b) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I33** Sch. 4 para. 3(9)(c) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 paras. 1(p), 11(2)**)
- I34** Sch. 4 para. 3(10)(a) (c)-(e) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I35** Sch. 4 para. 3(10)(b) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 para. 12**)
- I36** Sch. 4 para. 3(11)(a) in force at 30.11.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 para. 1(r)**)
- I37** Sch. 4 para. 3(11)(b)-(d) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I38** Sch. 4 para. 3(12)(a) in force at 30.11.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I39** Sch. 4 para. 3(12)(b) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I40** Sch. 4 para. 3(13) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with arts. 4, 6)
- I41** Sch. 4 para. 3(14)(a) in force at 30.11.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 para. 1(s)**)
- I42** Sch. 4 para. 3(14)(d) in force at 30.11.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I43** Sch. 4 para. 3(14)(e) in force at 30.11.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I44** Sch. 4 para. 3(15)(c) in force at 30.11.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 para. 1(t)**)
- I45** Sch. 4 para. 3(16)(a) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 para. 1(u)**)
- I46** Sch. 4 para. 3(16)(b) in force at 30.11.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I47** Sch. 4 para. 3(17)-(22) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I48** Sch. 4 para. 3(24)(25) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I49** Sch. 4 para. 3(26)-(28)(36)(a)(i) in force at 22.12.2010 by S.S.I. 2010/437, art. 3, **Sch.** (with art. 4)
- I50** Sch. 4 para. 3(29)(30) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I51** Sch. 4 para. 3(31)(a)(b)(d)-(h) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 para. 1(x)**)
- I52** Sch. 4 para. 3(31)(c) in force at 30.11.2012 for specified purposes by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with **Sch. 2 para. 1(w)**)
- I53** Sch. 4 para. 3(32)(a) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I54** Sch. 4 para. 3(32)(b)(c)(d) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I55** Sch. 4 para. 3(33) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I56** Sch. 4 para. 3(34)(35) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)



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- I57** Sch. 4 para. 3(36)(b) in force at 1.4.2012 by S.S.I. 2011/334, art. 3(1)(b)(2), **Sch. Pt. 2**
- I58** Sch. 4 para. 3(36)(c) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I59** Sch. 4 para. 3(36)(d) in force at 1.10.2011 for specified purposes by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I60** Sch. 4 para. 3(36)(d) in force at 30.11.2012 in so far as not already in force by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I61** Sch. 4 para. 3(36)(e) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I62** Sch. 4 para. 3(36)(f)(g) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I63** Sch. 4 para. 3(36)(h) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I64** Sch. 4 para. 3(36)(j) in force at 1.10.2011 for specified purposes by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I65** Sch. 4 para. 3(36)(j) in force at 30.11.2012 in so far as not already in force by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I66** Sch. 4 para. 3(37) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)

*Ethical Standards in Public Life etc. (Scotland) Act 2000*

- 4 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7) (devolved public bodies), for “The Crofters Commission” substitute “ The Crofting Commission ”.

**Commencement Information**

- I67** Sch. 4 para. 4 in force at 1.4.2012 by S.S.I. 2011/334, art. 3(1)(b)(2), **Sch. Pt. 2**

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Crofting Reform (Scotland) Act 2010.