



# Crofting (Amendment) (Scotland) Act 2013

2013 asp 10

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 25th June 2013 and received Royal Assent on 31st July 2013**

An Act of the Scottish Parliament to allow decrofting by owner-occupier crofters; and for connected purposes.

## **1 Applications to decroft by owner-occupier crofters**

- (1) The Crofters (Scotland) Act 1993 (c.44) (the “1993 Act”) is amended as follows.
- (2) After section 24 insert—

### **“24A Applications to decroft by owner-occupier crofters**

- (1) An owner-occupier crofter may apply to the Commission for a decrofting direction.
- (2) In this section and in sections 24B to 24D, a “decrofting direction” is a direction that the owner-occupier’s croft is to cease to be a croft.

### **24B Commission’s powers in relation to applications under section 24A**

- (1) The Commission may, on an application under section 24A(1), give a decrofting direction or refuse to grant the application.
- (2) But the Commission need not consider the application if—
  - (a) they have given the owner-occupier crofter a direction under section 26J(1) requiring the owner-occupier crofter to submit proposals for letting the owner-occupier’s croft and the period within which such proposals must be submitted has not expired, or
  - (b) no such proposals having been submitted before the expiry of that period or, such proposals having been submitted, no such proposal having been approved, they are proceeding in accordance with subsections (7) and (8) of section 26J.
- (3) And, where the application relates to an unregistered croft, the Commission—

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- (a) may not give a decrofting 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.

#### **24C Application of section 25 in relation to decrofting directions**

- (1) Section 25 applies in relation to an application under section 24A(1) by an owner-occupier crofter for a decrofting direction, and to such a direction, as it applies in relation to an application under section 24(3) by a landlord of a vacant croft, and to a direction under section 24(3), subject to the modifications mentioned in subsections (2) to (4).
- (2) In subsection (1), for paragraph (b) substitute—
  - “(b) in a case where—
    - (i) the application is made in respect of a part of a croft, which consists only of the site of the dwelling-house on or pertaining to the croft, and
    - (ii) they have not previously given a direction under section 24B(1) to the applicant in relation to such a site on or pertaining to that croft,
 they are satisfied that the extent of garden ground included in that part is appropriate for the reasonable enjoyment of the dwelling-house as a residence;”.
- (3) In subsection (3), for the words from “land in respect” to the end substitute “direction under section 24B(1) is revoked”.
- (4) The following provisions of, or words in, section 25 do not apply—
  - (a) subsection (1)(c),
  - (b) in subsection (2), the words “or (c)”,
  - (c) subsection (4),
  - (d) subsections (4ZA) to (4ZD),
  - (e) subsection (4A),
  - (f) in subsection (6)—
    - (i) the words “or subsection (4)”,
    - (ii) the words “or only of land the conveyance in feu of which was granted under section 17 or 18 of the 1955 Act”,
  - (g) in subsection (7), the words “or subsection (4)”,
  - (h) subsection (8)(a)(ii).

#### **24D Effect of decrofting direction**

- (1) Where a decrofting direction is given in relation to a croft, this Act ceases to apply to the croft.

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- (2) But subsection (1) does not affect the subsequent exercise of any powers conferred by this Act or any other enactment for the enlargement of existing crofts.
- (3) Where the croft to which the decrofting direction relates is a registered croft (other than a first registered croft)—
  - (a) the direction expires at the end of the period of 3 months beginning with the date on which the direction was given unless an application for registration of the giving 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.”.

## **2 Consequential modifications**

The schedule (which contains modifications of the 1993 Act and of the Crofting Reform (Scotland) Act 2010 (asp 14) (the “2010 Act”) consequential on section 1) has effect.

## **3 Retrospective effect and application**

- (1) The provisions mentioned in subsection (2) are to be treated for all purposes as having had effect during the period from 1 October 2011 until the coming into force of this Act.
- (2) Those provisions are—
  - (a) the provisions of the 1993 Act inserted by section 1 (other than section 24D(3)), as modified by subsection (3), and
  - (b) the modifications of that Act made by the schedule.
- (3) The modifications referred to in subsection (2)(a) are that—
  - (a) in section 24B, subsection (3) is omitted,
  - (b) in section 24C(4)(d), “(4ZC) and” is substituted for “ (4ZA) to ”.
- (4) Accordingly—
  - (a) an application of a kind mentioned in subsection (5) is to be treated as having been made under section 24A(1) of the 1993 Act (as inserted by section 1),
  - (b) a decision of a kind mentioned in subsection (6), and a direction of a kind mentioned in that subsection, is to be treated as having been made or, as the case may be, given under section 24B(1) of that Act (as so inserted).
- (5) The application referred to in subsection (4)(a) is one purported to have been made—
  - (a) by an owner-occupier crofter under section 24(3) of the 1993 Act,
  - (b) during the period from 1 October 2011 until the coming into force of this Act.
- (6) The decision referred to in subsection (4)(b), and the direction referred to in that paragraph, is one purported to have been made or, as the case may be, given—
  - (a) by the Commission under section 24(3) of the 1993 Act,
  - (b) on an application of a kind mentioned in subsection (5),
  - (c) before the coming into force of this Act.
- (7) In this section, the “Commission” and “owner-occupier crofter” have the meanings given by the 1993 Act.

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#### **4 Appeals against certain decisions etc.**

- (1) In the case of a decision of a kind mentioned in subsection (2), section 52A of the 1993 Act applies with the modification that, in subsection (2)(b), for “the Commission dispose of the application” there is substituted “ the coming into force of the Crofting (Amendment) (Scotland) Act 2013 ”.
- (2) The decision referred to in subsection (1) is one purported to have been made—
  - (a) by the Commission under section 24(3) of the 1993 Act,
  - (b) on an application of a kind mentioned in section 3(5),
  - (c) during the period from 14 January 2013 until 25 February 2013.
- (3) In the case of a direction of a kind mentioned in subsection (4), section 25(8) of the 1993 Act applies with the modification that, in paragraph (a), for “the giving of public notification of the making of the direction” there is substituted “ the coming into force of the Crofting (Amendment) (Scotland) Act 2013 ”.
- (4) The direction referred to in subsection (3) is one—
  - (a) purported to have been given—
    - (i) by the Commission under section 24(3) of the 1993 Act,
    - (ii) on an application of a kind mentioned in section 3(5),
  - (b) in respect of which the Commission gave public notification during the period from 14 January 2013 until 25 February 2013.
- (5) In this section, the “Commission” has the meaning given by the 1993 Act.

#### **5 Transitory provision**

From the coming into force of this Act until 30 November 2013, the following modifications apply to the provisions of the 1993 Act inserted by section 1—

- (a) section 24B is to be read as if subsection (3) were omitted,
- (b) in section 24C, subsection (4)(d) is to be read as if “(4ZC) and” were substituted for “ (4ZA) to ”,
- (c) in section 24D, subsection (3) is to be read as if the words “(other than a first registered croft)” were omitted.

#### **6 Commencement**

This Act comes into force on the day of Royal Assent.

#### **7 Short title**

The short title of this Act is the Crofting (Amendment) (Scotland) Act 2013.

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## SCHEDULE

*(introduced by section 2)*

### CONSEQUENTIAL MODIFICATIONS

#### *Crofters (Scotland) Act 1993 (c.44)*

- 1
- (1) The 1993 Act is further amended as follows.
  - (2) In section 3(2)(b) (effect of decrofting on meaning of “croft”), after “(3)” insert “ or 24B(1) ”.
  - (3) In section 17(7) (duty to notify Commission of acquisition of croft land), after “24(3)” insert “ or 24B(1) ”.
  - (4) In section 23 (vacant crofts)—
    - (a) in subsection (11), after “24” insert “ , 24A to 24D ”,
    - (b) in subsection (12A)—
      - (i) for “and section 24 have” substitute “ has ”,
      - (ii) in paragraph (b), omit “, and any reference to a landlord in section 24,”.
  - (5) In section 41(2)(cd)(iii) (content of Register of Crofts), after “24(3)” insert “ , 24B(1) ”.

#### *Crofting Reform (Scotland) Act 2010 (asp 14)*

- 2
- (1) The 2010 Act is amended as follows.
  - (2) In section 4(4) (triggers for first registration), in paragraph (l)—
    - (a) omit “or” after sub-paragraph (ii),
    - (b) after that sub-paragraph insert—

“(ia) by application under section 24A(1) of that Act; or”.
  - (3) In section 5(3) (events to be registered in relation to registered crofts), in paragraph (l), for “, as the case may be, (3)” substitute “ (3) or, as the case may be, 24B(1) ”.
  - (4) In section 10 (completion of registration: further provision on first registrations)—
    - (a) in subsection (7), after “(l)(ii)” insert “ , (l)(ia) ”,
    - (b) in subsection (8)(b), after “(3)” insert “ or 24B(1) ”.
  - (5) In section 15(3) (resumed and decrofted crofts)—
    - (a) in paragraph (a), for “, as the case may be, (3)” substitute “ (3) or, as the case may be, 24B(1) ”,
    - (b) after that paragraph insert—

“(aa) in the case of a decrofting direction under section 24B(1), the Commission have not revoked the direction under section 25(3),”.
  - (6) In schedule 2 (persons responsible for registration)—
    - (a) in Table 1, after the entry relating to section 4(4)(l)(ii) insert—

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“The making of an application as mentioned in section 4(4)(1)(iia)	The owner-occupier crofter making the application”,
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(b) in Table 2, in the entry relating to section 5(3)(1), in the second column, for “landlord” substitute “ person ”.

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