



Land Reform (Scotland) Act 2016

2016 asp 18

PART 2

THE SCOTTISH LAND COMMISSION

CHAPTER 1

THE COMMISSION

Establishment

4 The Scottish Land Commission

- (1) The Scottish Land Commission (in Gaelic, Coimisean Fearainn na h-Alba) is established by this section.
- (2) In this Act, it is referred to as “the Commission”.
- (3) The Commission is a body corporate.
- (4) The Commission is to consist of the following members—
 - (a) five Land Commissioners, and
 - (b) the Tenant Farming Commissioner.
- (5) The Scottish Ministers may by regulations amend subsection (4)(a) so as to alter the number of Land Commissioners.
- (6) The Commission has the functions conferred by section 6.
- (7) The Land Commissioners have the functions conferred by section 22.
- (8) The Tenant Farming Commissioner has the functions conferred by section 24.

5 Status

- (1) The Commission is not a servant or agent of the Crown.

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- (2) It does not enjoy any status, immunity or privilege of the Crown.
- (3) Its property is not property of, or property held on behalf of, the Crown.
- (4) Its members and staff—
 - (a) are not servants or agents of the Crown,
 - (b) have no status, immunity or privilege of the Crown,
 - (c) are not to be regarded as civil servants.

Functions of the Commission

6 Functions of the Commission

The functions of the Commission are—

- (a) to provide the Land Commissioners and Tenant Farming Commissioner with the property, staff and services needed to perform their respective functions, and
- (b) to make such arrangements as are appropriate and practicable for the co-ordination of the performance of those respective functions.

7 General powers

- (1) The Commission may do anything which it considers—
 - (a) to be necessary or expedient for the purposes of, or in connection with, the exercise of—
 - (i) its functions,
 - (ii) the functions of the Land Commissioners,
 - (iii) the functions of the Tenant Farming Commissioner,
 - (b) to be conducive to the exercise of those respective functions.
- (2) In particular, the Commission may—
 - (a) enter into contracts,
 - (b) acquire and dispose of land,
 - (c) co-operate with any person,
 - (d) obtain advice or assistance from any person who is, in the Commission’s opinion, qualified to give it,
 - (e) pay any such person such fees, remuneration and allowances as the Commission may determine.

Strategic plan and programme of work

8 Strategic plan

- (1) The Commission must prepare a strategic plan setting out how the Commission, the Land Commissioners and the Tenant Farming Commissioner propose to exercise their respective functions for the period to which the plan relates.
- (2) A strategic plan must, in particular, set out—
 - (a) the objectives and priorities of—
 - (i) the Commission,

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- (ii) the Land Commissioners,
 - (iii) the Tenant Farming Commissioner,
 - (b) estimates of the costs of the exercise of their respective functions of—
 - (i) the Commission,
 - (ii) the Land Commissioners,
 - (iii) the Tenant Farming Commissioner.
- (3) The Commission must submit the strategic plan to the Scottish Ministers—
 - (a) in the case of the first plan, before the end of the period of 6 months beginning with the day on which this section comes into force,
 - (b) in the case of each subsequent plan, before the end of the period of 3 years beginning with the day on which the Commission last submitted its strategic plan.
- (4) The Scottish Ministers may—
 - (a) approve the strategic plan,
 - (b) approve the strategic plan with such modifications as they consider appropriate in consultation with the Commission,
 - (c) reject the strategic plan and direct the Commission to submit a revised plan before the end of such period as the Scottish Ministers may determine.
- (5) Where the Scottish Ministers approve the strategic plan under subsection (4)(a) or (4)(b), the Commission must as soon as practicable—
 - (a) publish the plan in such form as it considers appropriate, and
 - (b) lay a copy of the plan before the Scottish Parliament.
- (6) The Commission—
 - (a) must comply with any direction to submit a revised strategic plan under subsection (4)(c),
 - (b) may from time to time submit a revised strategic plan.
- (7) Subsections (4) and (5) apply to a revised strategic plan as they apply to a strategic plan.

9 Programme of work

- (1) The Land Commissioners must prepare a programme of work setting out—
 - (a) information on any proposed reviews under section 22(1)(a),
 - (b) information on any other activities,
 - (c) timetables for the programme.
- (2) The Commission must submit the Land Commissioners' programme of work to the Scottish Ministers when it submits the strategic plan under section 8.
- (3) The Commission must—
 - (a) publish the programme of work in such form as it considers appropriate, and
 - (b) lay a copy of the programme before the Scottish Parliament.
- (4) The Commission may from time to time submit a revised programme of work.
- (5) Subsection (3) applies to a revised programme of work as it applies to a programme of work.

Membership

10 Membership

- (1) The Scottish Ministers are to appoint the members of the Commission.
- (2) The Scottish Ministers may appoint a person as a member only if the Scottish Parliament has approved the appointment.
- (3) Each member is to be appointed for such period, not exceeding 5 years, as the Scottish Ministers may determine.
- (4) Subject to sections 11, 12 and 13, an appointed member holds and vacates office on such terms and conditions as the Commission may, with the approval of the Scottish Ministers, determine.
- (5) The Scottish Ministers may reappoint as a member a person who is or has been a member.
- (6) Subsections (2) and (3) apply to a reappointment under subsection (5) as they apply to an appointment under subsection (1).
- (7) The Scottish Ministers must select one of the Land Commissioners to chair the Commission.

11 Eligibility for appointment

- (1) In appointing members to the Commission, the Scottish Ministers must—
 - (a) have regard among other things to the desirability of the Commission (taken as a whole) having expertise or experience in—
 - (i) land reform,
 - (ii) law,
 - (iii) finance,
 - (iv) economic issues,
 - (v) planning and development,
 - (vi) land management,
 - (vii) community empowerment,
 - (viii) environmental issues,
 - (ix) human rights,
 - (x) equal opportunities,
 - (xi) the reduction of inequalities of outcome which result from socio-economic disadvantage, and
 - (b) encourage equal opportunities and in particular the observance of the equal opportunity requirements.
- (2) In appointing the Land Commissioners, the Scottish Ministers must take every reasonable step to ensure that at least one of the Commissioners is a speaker of the Gaelic language.
- (3) In appointing the Tenant Farming Commissioner, the Scottish Ministers must ensure that the person appointed has expertise or experience in agriculture.

- (4) When the Scottish Ministers refer an appointment to the Scottish Parliament for approval under section 10(2), they must lay before the Scottish Parliament a statement as to how they have complied with the duties in subsections (1) to (3).
- (5) In subsection (1) “equal opportunities” and “equal opportunity requirements” have the same meanings as in Section L2 of Part 2 of schedule 5 of the Scotland Act 1998.

12 Disqualification from membership

- (1) A person may not be appointed as a member of the Commission if that person is or has been at any time during the previous 12 months—
 - (a) a member of the House of Commons,
 - (b) a member of the Scottish Parliament,
 - (c) a member of the European Parliament,
 - (d) an officer-holder of the Scottish Administration,
 - (e) a councillor of any local authority.
- (2) A person may not be appointed as the Tenant Farming Commissioner if that person is the owner or tenant of land subject to a relevant tenancy.
- (3) In this Part “relevant tenancy” means—
 - (a) a tenancy to which the 1991 Act applies, or
 - (b) a tenancy under sections 4, 5, 5A or 5C of the 2003 Act (new types of tenancy).
- (4) A person’s appointment as a member ceases if, during the person’s period of appointment, any of subsection (1)(a) to (e) applies to that person.
- (5) A person’s appointment as the Tenant Farming Commissioner ceases if, during the person’s period of appointment, subsection (2) applies to that person.

13 Resignation and removal

- (1) A member of the Commission may resign at any time by giving notice in writing to the Scottish Ministers.
- (2) The Scottish Ministers may by giving notice in writing revoke the appointment of a person as a member if satisfied that the person—
 - (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 Commission, or
 - (e) is otherwise unable or unfit to exercise any of the functions of a member or is unsuitable to continue as a member.
- (3) For the purposes of subsection (2)(a) a person becomes insolvent when—
 - (a) the person’s estate is sequestered,
 - (b) the person grants a trust deed for creditors or makes a composition or arrangement with creditors,
 - (c) a voluntary arrangement proposed by the person is approved,

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- (d) the person's application for a debt payment programme is approved under section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002, or
- (e) the person becomes subject to any other kind of order or arrangement analogous to those described in paragraphs (a) to (d) anywhere in the world.

Remuneration and staff

14 Remuneration, allowances and pensions

- (1) The Commission may pay its members and employees—
 - (a) such remuneration as the Commission may, with the approval of the Scottish Ministers, determine, and
 - (b) such allowances in respect of expenses properly incurred in the exercise of the Commission's functions as may be so determined.
- (2) 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,
 - (c) provide and maintain schemes (whether contributory or not) for the payment of,

such pensions, allowances or gratuities to any member or employee or former member or employee of the Commission as the Commission may determine.
- (3) Those pensions, allowances or gratuities may include pensions, allowances or gratuities by way of compensation for loss of office.

15 Staff

- (1) The Commission is to employ a person as chief executive.
- (2) The first chief executive is to be appointed by the Scottish Ministers on such terms as they may determine.
- (3) Each subsequent chief executive is to be appointed—
 - (a) by the Commission with the approval of the Scottish Ministers,
 - (b) on such terms and conditions as the Commission may, with the approval of the Scottish Ministers, determine.
- (4) The Commission may employ any other staff necessary for the exercise of its functions.
- (5) The Commission's staff are to be employed on such terms and conditions as the Commission may, with the approval of the Scottish Ministers, determine.

Operational matters

16 Validity of things done

The validity of anything done by the Commission is not affected by—

- (a) a vacancy in membership,
- (b) a defect in the appointment of a member,

- (c) a person's membership having ended under section 13.

17 Committees

- (1) The Commission may establish committees for any purpose relating to—
 - (a) its functions,
 - (b) the functions of the Land Commissioners,
 - (c) the functions of the Tenant Farming Commissioner.
- (2) The Commission may authorise any committee to exercise such of its functions, and to such extent, as it may determine.
- (3) Nothing in subsection (2) affects the responsibility of the Commission for the exercise of its functions.
- (4) The Commission may appoint a person who is not a member of the Commission to be a member of a committee.
- (5) The Commission may pay to a person who is not a member of the Commission and who is appointed to a committee—
 - (a) such remuneration as the Commission may, with the approval of the Scottish Ministers, determine, and
 - (b) such allowances in respect of expenses properly incurred in the exercise of the functions of the Commission, of the Land Commissioners or of the Tenant Farming Commissioner as may be so determined.
- (6) A committee must comply with any directions given to it by the Commission.

18 Regulation of procedure

- (1) The Commission must establish and maintain a register of interests.
- (2) Otherwise, the Commission may regulate its own procedure and those of its committees, including the quorum at any meeting.

Accounts and annual report

19 Accounts

- (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 the Scottish 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 subsection (1).
- (4) The Commission must make its audited statement of accounts and accounting records available so that they may be inspected by any person.

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20 Annual report

- (1) As soon as practicable after the end of each financial year, the Commission must prepare a report setting out—
 - (a) an assessment of its performance in carrying out its functions, including—
 - (i) the functions of the Commission,
 - (ii) the functions of the Land Commissioners,
 - (iii) the functions of the Tenant Farming Commissioner,
 - (b) an assessment of the performance by the Commission and its members in achieving the main objectives set out in any strategic plan having effect during that year,
 - (c) an assessment of the performance by the Land Commissioners in relation to any programme of work having effect during that year,
 - (d) such other information as the Commission considers appropriate.
- (2) The Commission must—
 - (a) publish each annual report in such form as the Commission considers appropriate,
 - (b) provide a copy of each annual report to the Scottish Ministers, and
 - (c) lay a copy of each annual report before the Scottish Parliament.
- (3) The Commission—
 - (a) may publish such other reports and information on matters relevant to its functions as it considers appropriate,
 - (b) where it does so, must lay a copy of each report before the Scottish Parliament.

Application of public bodies legislation

21 Application of legislation relating to public bodies

- (1) In the Ethical Standards in Public Life etc. (Scotland) Act 2000, in schedule 3 (devolved public bodies), at the appropriate place in alphabetical order insert—
 “The Scottish Land Commission”.
- (2) In the Freedom of Information (Scotland) Act 2002, in Part 7 of schedule 1 (Scottish public authorities: others), after paragraph 90 insert—
 “90A The Scottish Land Commission.”.
- (3) In the Public Services Reform (Scotland) Act 2010—
 - (a) in schedule 5 (improvement of public functions: listed public bodies), at the appropriate place in alphabetical order insert—
 “Scottish Land Commission”,
 - (b) in schedule 8 (information on exercise of public functions: listed public bodies), at the appropriate place in alphabetical order insert—
 “Scottish Land Commission”.