



Crofters (Scotland) Act 1993

1993 CHAPTER 44

Provisions relating to termination of tenancy and de-crofting

20 Resumption of croft or part of croft by landlord

- (1) The Land Court may, on the application of the landlord and on being satisfied that he desires to resume the croft, or part thereof, for some reasonable purpose having relation to the good of the croft or of the estate or to the public interest, authorise the resumption thereof by the landlord upon such terms and conditions as it may think fit, and may require the crofter to surrender his croft, in whole or in part, to the landlord accordingly, upon the landlord making adequate compensation to the crofter either by letting to him other land of equivalent value in the neighbourhood or by compensation in money or by way of an adjustment of rent or in such other manner as the Land Court may determine.
- (2) A sum awarded as compensation under subsection (1) above shall, if the Land Court so determines, carry interest as from the date when such sum is payable at the same rate as would apply (in the absence of any such statement as is provided for in Rule 66 of the Act of Sederunt (Rules of Court, consolidation and amendment) 1965) in the case of decree or extract in an action commenced on that date in the Court of Session if interest were included in or exigible under that decree or extract.
- (3) For the purposes of subsection (1) above “reasonable purpose” shall include—
 - (a) the using, letting or feuing of the land proposed to be resumed for—
 - (i) the building of dwellings;
 - (ii) small allotments;
 - (iii) harbours, piers, boat shelters or other like buildings;
 - (iv) churches or other places of religious worship;
 - (v) schools;
 - (vi) halls or community centres;
 - (vii) planting;
 - (viii) roads practicable for vehicular traffic from the croft or township to the public road or to the seashore; or

- (ix) any other purpose likely to provide employment for crofters and others in the locality;
 - (b) the protection of an ancient monument or other object of historical or archaeological interest from injury or destruction.
- (4) Where an application is made, with the consent of a majority of the persons sharing in a common grazing and with the approval of the Commission, for authority to resume any land forming part of the common grazing for the purpose of using, letting or otherwise disposing of it for the planting of trees, the Land Court shall not withhold its authority for such resumption.
- (5) Where a grazings committee have, under section 48(4) of this Act, planted trees on land forming part of a common grazing, it shall not be competent for an application to be made under subsection (1) above in respect of that land while it continues to be used as woodlands.

21 Crofter's right to share in value of land resumed by landlord

- (1) Where the Land Court authorises the resumption of a croft or a part thereof under section 20 of this Act, the crofter shall be entitled to receive from the landlord, in addition to any compensation payable to him under that section, a share in the value of the land so resumed the amount whereof shall be one half of the difference between, subject to subsection (5) below, the market value of the land (on the date on which resumption thereof is so authorised) as determined by the Land Court in accordance with subsections (2) and (3) below (less any compensation payable as aforesaid) and the crofting value thereof.
- (2) Where the resumption of the land is so authorised for some reasonable purpose which has been or is to be carried out by the landlord or by any person not being an authority possessing compulsory purchase powers, the market value for the purposes of subsection (1) above shall be a sum equal to the amount which the land, if sold in the open market by a willing seller, might be expected to realise.
- (3) Where the resumption is so authorised for some reasonable purpose which has been or is to be carried out by an authority possessing compulsory purchase powers (not being the landlord) on the acquisition by them of the land so resumed, the market value for the purposes of subsection (1) above shall be a sum equal to the amount of compensation payable by the authority to the landlord in respect of the acquisition:

Provided that, where the land so resumed forms part only of the land acquired from the landlord by the authority, the market value shall be a sum equal to such amount as the Land Court may determine to be the proportion of the amount of compensation so payable by the authority which relates to the land so resumed.

- (4) Where the land so resumed forms or forms part of a common grazing—
- (a) the share of the value of that land payable to the crofters sharing in the common grazing shall be apportioned among such crofters according to the proportion that the right in the common grazing of each such crofter bears to the total of such rights;
 - (b) any sum so apportioned to such a crofter shall be deemed to be the share in the value of such land resumed to which he is entitled under subsection (1) above, and
 - (c) the share so payable shall, if a grazings committee or a grazings constable has been appointed under section 47 of this Act, be paid by the landlord to

the clerk of the committee or the constable for distribution by him among the crofters concerned:

Provided that, if any crofter wishes the proportion of the share payable to him to be paid directly to him by the landlord, the landlord shall comply with his wishes.

- (5) For the purposes of this section, where any development has been carried out by any person, other than the crofter or any of his predecessors in the tenancy, on the land which the Land Court has authorised the landlord to resume before such authorisation, there shall be deducted from the market value such amount thereof as, in the opinion of the Land Court, is attributable to that development.
- (6) A sum awarded under this section shall, if the Land Court so determines, carry interest as from the date when such sum is payable at the same rate as would apply (in the absence of any such statement as is provided for in Rule 66 of the Act of Sederunt (Rules of Court, consolidation and amendment) 1965) in the case of a decree or extract in an action commenced on that date in the Court of Session if interest were included in or exigible under that decree or extract.
- (7) In this section—
 - “crofting value”, in relation to land resumed, has the same meaning as it has in section 14 of this Act in relation to croft land;
 - “reasonable purpose” has the same meaning as in section 20(3) of this Act.

22 Absentee crofters

- (1) If the Commission determine in relation to a croft—
 - (a) that the crofter is not ordinarily resident on, or within 16 kilometres of, the croft; and
 - (b) that it is in the general interest of the crofting community in the district in which the croft is situated that the tenancy of the crofter should be terminated and the croft let to some other person or persons;

then, subject to the provisions of this section, they shall have power to make an order terminating the tenancy of the crofter and requiring him to give up his occupation of the croft at a term of Whitsunday or Martinmas not earlier than 3 months after the making of such order.

- (2) Before making an order under subsection (1) above the Commission shall take into consideration all the circumstances of the case, including the extent, if any, to which the croft is being worked and, where the croft is being worked by a member of the crofter’s family, the nature of the arrangements under which it is being so worked, and shall give to the crofter and to the landlord, not less than 6 months before the term at which the proposed order will take effect, notice that they propose to make such an order and shall afford to the crofter and the landlord an opportunity of making representations to them against the making of the proposed order.

Where the Commission make such an order, they shall, not less than 3 months before the term at which the order takes effect, give notice to the crofter and to the landlord of the making of the order.

- (3) Where an order has been made under subsection (1) above and the crofter has failed to give up his occupation of the croft on or before the day on which the order takes

effect, the sheriff on the application of the Commission shall, except on cause shown to the contrary, grant warrant for ejection of the crofter.

- (4) The Commission may recover from the crofter the expenses incurred by them in any application under subsection (3) above and in the execution of any warrant granted thereon.
- (5) A crofter shall, on the termination of his tenancy by an order made under subsection (1) above, be entitled to the like rights to, and be subject to the like liabilities in respect of, compensation as if he had renounced his tenancy at the term at which the order takes effect.

23 Vacant crofts

- (1) Where—
 - (a) the landlord of a croft receives from the crofter a notice of renunciation of his tenancy or obtains from the Land Court an order for the removal of the crofter; or
 - (b) the landlord of the croft either gives to the executor of a deceased crofter, or receives from such an executor, notice terminating the tenancy of the croft in pursuance of section 16(3) of the 1964 Act; or
 - (c) for any other reason the croft has become vacant otherwise than by virtue of a declaration by the Commission in the exercise of any power conferred on them by this Act;

the landlord shall within one month from—

 - (i) the receipt of the notice of renunciation of the tenancy, or
 - (ii) the date on which the Land Court made the order, or
 - (iii) the date on which the landlord gave or received notice terminating the tenancy, or
 - (iv) the date on which the vacancy came to the landlord's knowledge,

as the case may be, give notice thereof to the Commission.
- (2) Any person who, being the landlord of a croft, fails to comply with the requirements of subsection (1) above shall be guilty of an offence and shall be liable on summary conviction to a fine of an amount not exceeding level 1 on the standard scale.
- (3) The landlord of a croft shall not, except with the consent in writing of the Commission, or, if the Commission withhold their consent, except with the consent of the Secretary of State, let the croft or any part thereof to any person; and any letting of the croft otherwise than with such consent shall be null and void.
- (4) Where any person is in occupation of a croft under a letting which is null and void by virtue of subsection (3) above, the Commission may serve on him a notice in writing requiring him to give up his occupation of such croft on or before such day as may be specified in the notice, being a day not less than one month from the date of the service of the notice; and if he fails to give up his occupation of the croft on or before that day, subsection (3) of section 22 of this Act shall, subject to any necessary modifications, apply as it applies where a crofter fails to give up the occupation of a croft as mentioned in that subsection.
- (5) Where a croft is vacant the Commission may, at any time after the expiry of one month from the occurrence of the vacancy, give notice to the landlord requiring him to submit to them his proposals for re-letting the croft, whether as a separate croft

or as an enlargement of another croft, and if, within a period of 2 months from the giving of such notice, no such proposals are submitted or such proposals are submitted but the Commission refuse to approve them, the Commission may, if they think fit, themselves let the croft to such person or persons and on such terms and conditions (including conditions as to rent) as may be fixed by the Commission after consultation with the landlord; and such let shall have effect in all respects as if it had been granted by the landlord:

Provided that the Commission shall not themselves let the croft while the Secretary of State is considering an application made to him under subsection(3) above for consent to let, or the Commission are considering an application made to them under section 24(3) of this Act for a direction that the croft shall cease to be a croft.

- (6) Where a croft has been let on terms and conditions fixed by the Commission, the landlord may within one month from the date of the letting apply to the Land Court for a variation of the terms and conditions so fixed, and any variation made in pursuance of such application shall have effect as from the date of the letting.
- (7) Where the Commission have under subsection (5) above let a vacant croft as an enlargement of another croft, and any of the buildings on the vacant croft thereby cease to be required in connection with the occupation of the croft, the Commission shall give notice to that effect to the landlord, and thereupon—
 - (a) the buildings shall cease to form part of the croft; and
 - (b) the landlord may, at any time within 6 months after the giving of such notice, give notice to the Secretary of State requiring him to purchase the buildings.
- (8) If the landlord, within one month after the Commission issue a direction under section 24(2) of this Act that a croft shall cease to be a croft, gives notice to the Secretary of State requiring him to purchase the buildings on the croft, the Secretary of State shall purchase such buildings.
- (9) Where a notice has been duly given under subsection (7)(b) or (8) above, the Secretary of State shall be deemed to be authorised to purchase the buildings compulsorily and to have served notice to treat in respect thereof on the date on which the notice aforesaid was given:

Provided that the consideration payable by the Secretary of State in respect of the purchase of the buildings shall be such sum as may be agreed by the Secretary of State and the landlord, or, failing agreement, as may be determined by the Land Court to be equal to the amount which an out-going tenant who had erected or paid for the erection of the buildings would have been entitled to receive from the landlord by way of compensation for permanent improvements in respect of the buildings as at the date on which notice was given as aforesaid to the Secretary of State requiring him to purchase the buildings.

- (10) For the purposes of this section and sections 24 and 25 of this Act, a croft shall be taken to be vacant notwithstanding that it is occupied, if it is occupied otherwise than by the tenant of the croft.
- (11) The provisions of this section and sections 24 and 25 of this Act shall have effect in relation to a part of a croft as they have effect in relation to a croft.
- (12) This section and section 24 of this Act shall have effect as if—

- (a) a person who has become the owner-occupier of a croft were required under subsection (1) above within one month of the date on which he became such owner-occupier to give notice thereof to the Commission; and
- (b) any reference in this section and section 24 of this Act, other than in subsection (1) above, to a landlord included a reference to an owner-occupier.

24 Decrofting in case of resumption or vacancy of croft

- (1) This Act shall cease to apply to any land on its being resumed in pursuance of an order authorising its resumption made under section 20 of this Act by the Land Court, without prejudice, however, to the subsequent exercise of any powers conferred by this Act for the enlargement of existing crofts.
- (2) Where a croft has, in consequence of the making of an order under section 22(1) of this Act, become vacant and has remained unlet for a period of 6 months beginning with the date on which the croft so became vacant, the Commission shall, if the landlord at any time within 3 months after the expiry of the period aforesaid, gives notice to the Commission requiring them to do so, direct that the croft shall cease to be a croft.
- (3) Where a croft is vacant, the Commission may, on the application of the landlord, direct that the croft shall cease to be a croft or refuse to grant the application; and if the Commission direct under this subsection or under subsection (2) above that a croft shall cease to be a croft then, subject to subsection (4) below, this Act shall cease to apply to the croft, without prejudice, however, to the subsequent exercise of any powers conferred by this Act or any other enactment for the enlargement of existing crofts.
- (4) The coming into effect of a direction given by the Commission by virtue of section 25(4) of this Act shall not affect the powers contained in the proviso to section 29(3) of this Act.

25 Provisions supplementary to s.24(3)

- (1) The Commission shall give a direction under section 24(3) of this Act that a croft shall cease to be a croft if—
 - (a) subject to subsection (2) below, they are satisfied that the applicant has applied for the direction in order that the croft may be used for or in connection with some reasonable purpose (within the meaning of section 20 of this Act) having relation to the good of the croft or of the estate or to the public interest and that the extent of the land to which the application relates is not excessive in relation to that purpose; or
 - (b) 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 in respect of which a crofter is entitled at the time of the application, or has been entitled, to a conveyance by virtue of section 12(2) of this Act, and 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.
- (2) Without prejudice to subsection (1)(b) above, the Commission, in determining whether or not to give such a direction, shall have regard to the general interest of the crofting community in the district in which the croft is situated and in particular to the demand, if any, for a tenancy of the croft from persons who might reasonably be expected to

obtain that tenancy if the croft were offered for letting on the open market on the date when they are considering the application.

- (3) Where the Commission give such a direction on being satisfied as mentioned in subsection (1)(a) above, they may in the direction impose such conditions as appear to them requisite for securing that the land to which the direction relates is used for the proposed use; and if at any time they are satisfied that there has been a breach of any such condition, they may make a further direction that the land in respect of which there has been such a breach shall be a vacant croft.
- (4) The Commission may, on the application of a crofter who is proposing to acquire croft land or the site of the dwelling-house on or pertaining to his croft, give a direction under the said section 24(3) as if the land were a vacant croft and the application were made by the landlord, that in the event of such acquisition of the land it shall cease to be a croft, or refuse the application; but such a direction shall not have effect until the land to which it relates has been acquired by the crofter or his nominee and unless the acquisition is made within 5 years of the date of the giving of the direction.
- (5) A direction under the said section 24(3) may be given taking account of such modification of the application in relation to which the direction is given as the Commission consider appropriate.
- (6) The Commission shall advertise all applications under the said section 24(3) or subsection (4) above (except an application made in respect of a part of a croft consisting only of the site of the dwelling-house on or pertaining to the croft) in one or more newspapers circulating in the district in which the croft to which the application relates is situated, and before disposing of such an application shall, if requested by the applicant, afford a hearing to the applicant and to such other person as they think fit.
- (7) The Commission shall give notice in writing to the applicant of their proposed decision on an application made to them under the said section 24(3) or subsection (4) above, specifying the nature of and the reasons for such decision.
- (8) The applicant may within 21 days of receipt of the notice under subsection (7) above, and the owner of land to which a further direction under subsection (3) above relates may within 21 days of the making of that further direction, appeal against the proposed decision or further direction to the Land Court who may hear or consider such evidence as it thinks fit in order to enable it to dispose of the appeal.
- (9) The Commission shall give effect to the determination of the Land Court on an appeal under subsection (8) above.

26 Provisions as to removal of crofter

- (1) When—
 - (a) one year's rent of a croft is unpaid, or
 - (b) a crofter has broken one or more of the statutory conditions (other than the condition as to payment of rent),the Land Court may, on the application of the landlord and after considering any objections stated by the crofter, make an order for the removal of the crofter.
- (2) When a crofter whose rights to compensation for permanent improvements have been transferred in whole or in part to the Secretary of State under section 43 of this Act—
 - (a) has abandoned his croft; or

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

- (b) has broken any of the statutory conditions (other than the condition as to payment of rent); or
- (c) has broken any of the conditions of repayment of a loan contained in the agreement for the loan;

the Land Court may, on the application of the Secretary of State and after considering any objections stated by the crofter or the landlord, make an order for the removal of the crofter.

- (3) If a crofter is removed from his croft, the landlord shall be entitled to set off all rent due or to become due against any sum found to be due by the landlord to the crofter or to the Secretary of State for permanent improvements made on the croft.