



# Crofters (Scotland) Act 1993

## 1993 CHAPTER 44

### *Meaning of croft and crofter*

#### [<sup>F1</sup>3A New crofts

- (1) The Commission shall have power, on the application of the owner of any land situated—
  - (a) in the crofting counties; or
  - (b) in an area outwith the crofting counties which is, by order made by statutory instrument, designated for the purposes of this paragraph by the Scottish Ministers,to constitute the land as a croft <sup>F2</sup>....
- (2) The Commission shall have power—
  - (a) on the application of the tenant of any holding situated as is mentioned in subsection (1)(b) above; and
  - (b) provided that subsection (3) below is complied with and that the conditions set out in subsection (12) below are met,to constitute the holding as a croft <sup>F3</sup>....
- (3) Any application under subsection (2) above must be accompanied by a certificate of the Land Court to the effect that the Court is satisfied that, as at the date of the certificate—
  - (a) the tenancy of the holding is one to which—
    - (i) section 32 of the Small Landholders (Scotland) Act 1911 (c. 49) applies; or
    - (ii) any of the provisions of the Small Landholders (Scotland) Acts 1886 to 1931 applies; and
  - (b) no part of the holding is leased other than as a tenancy mentioned in paragraph (a) above.

<sup>F4</sup>(4) .....

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*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 3A. (See end of Document for details)*

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- (5) The Commission shall, on receipt of an application under subsection (1) or (2) above, give public notification of it.
- (6) Notification under subsection (5) above shall specify a period within which comments as regards the application, being comments of the description given in subsection (10) below, may be made.
- (7) After the period mentioned in subsection (6) above has elapsed the Commission shall—
- (a) determine whether to exercise their power under subsection (1) or as the case may be (2) above; and
  - (b) give public notification of that determination.
- (8) In so determining, the Commission shall have regard to—
- (a) such comments, if any, as are duly made by virtue of subsection (6) above;
  - (b) the public interest and as the case may be the interests of the crofting community in the locality of the land; and
  - (c) whether social or economic benefits might be expected as a consequence of so constituting it.
- (9) No application is to be made under subsection (1) above in respect of an agricultural holding occupied by a tenant where—
- (a) the tenancy is—
    - (i) a 1991 Act tenancy (within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11)); or
    - (ii) a short limited duration tenancy<sup>F5</sup>, limited duration tenancy, modern limited duration tenancy or repairing tenancy] (within the meaning of that Act); or
  - (b) it is competent for the tenant to make an application under subsection (2) above,
- if the written agreement of the tenant has not been obtained; and on such a holding being constituted as a croft under subsection (1) above the tenant shall be entitled (unless not a natural person) to be registered, in accordance with section 41(2)(b) of this Act, as its tenant.
- (10) The description is that the comments are made in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape).
- (11) For the purposes of subsection (10) above (and without prejudice to the generality of that subsection), comments are to be treated as made in writing where they are—
- (a) transmitted by electronic means;
  - (b) received in legible form; and
  - (c) capable of being used for subsequent reference.
- (12) The conditions are—
- <sup>F6</sup>(a) .....
  - (b) that the tenant is a natural person; and
  - (c) that such fixed equipment on the holding as is necessary to enable the tenant to cultivate the croft is not provided by the landlord.

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*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 3A. (See end of Document for details)*

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- (13) An order under subsection (1)(b) above is not made unless a draft of the statutory instrument containing the order has been—
- (a) laid before; and
  - (b) approved by a resolution of,  
the Scottish Parliament.]

#### **Textual Amendments**

- F1** Ss. 3A-3C inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 6**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F2** Words in s. 3A(1) repealed (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 23(2)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 2)
- F3** Words in s. 3A(2) repealed (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 23(2)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 2)
- F4** S. 3A(4) repealed (30.11.2013) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 23(3)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(c) (with sch. 2 para. 2)
- F5** Words in s. 3A(9)(a)(ii) substituted (30.11.2017) by Land Reform (Scotland) Act 2016 (asp 18), s. 130(1), **sch. 2 para. 4(2)** (with s. 128); S.S.I. 2017/299, reg. 2, sch. (with reg. 9)
- F6** S. 3A(12)(a) repealed (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(4)** (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with art. 4)

**Changes to legislation:**

There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 3A.