



# Transfer of Crofting Estates (Scotland) Act 1997

## 1997 CHAPTER 26

An Act to enable the Secretary of State to dispose of his crofting estates and certain other property of his in the crofting counties to approved crofting bodies; and for connected purposes. [19th March 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Disposal of crofting property**

- (1) The Secretary of State may dispose of any of his crofting property in accordance with this Act.
- (2) The power of the Secretary of State under subsection (1) may be exercised by him notwithstanding any restriction contained in any other enactment or rule of law which affects the right of—
  - (a) the Secretary of State in particular; or
  - (b) the owner of any interest in such property,to dispose of such property.
- (3) In this Act any reference, however expressed, to the crofting property of the Secretary of State shall include any property in which he has an interest as owner—
  - (a) which is held subject to the 1993 Act;
  - (b) which comprises fishermen's dwellings and holdings for the purposes of section 4(1)(e) of the Congested Districts (Scotland) Act 1897; or
  - (c) which is situated in the crofting counties and is held as part of the Secretary of State's crofting estate but is not held subject to the 1993 Act.

- (4) The disposal of property under this Act shall be on such terms as the Secretary of State, with the consent of the Treasury, may agree with the body acquiring the property.
- (5) Where the Secretary of State disposes of any crofting property under this Act the disposal may include the disposal of any interest he has in the mineral, sporting or other rights effeiring to the property.
- (6) Where the Secretary of State disposes of crofting property under this Act—
  - (a) no body or person acquiring such property; and
  - (b) no body or person who acquires any such property under any subsequent disposal,shall be entitled to require proof of consent of the Treasury to the disposal or shall be affected by any failure or omission to obtain such consent.
- (7) Any sums received by the Secretary of State in pursuance of this section shall be paid into the Consolidated Fund.

## **2 Restrictions on disposal**

- (1) The Secretary of State may dispose of crofting property under this Act only to a body, corporate or unincorporated, which has been approved by him, after consultation with the Commission, as a body which—
  - (a) is representative of the crofting interests in the property to be disposed of; and
  - (b) has the promotion of the interests of persons residing on such property as its primary objective.
- (2) For the purposes of responding to the consultation, the Commission shall have regard to—
  - (a) the general interests of the crofting community in the district in which the property is situated;
  - (b) the views of crofters in that district; and
  - (c) any other matter which they consider to be relevant.
- (3) In the application of this section to property mentioned in paragraph (b) or (c) of section 1(3)—
  - (a) in each place where it occurs, the word “crofting” shall be omitted; and
  - (b) in paragraph (b) of subsection (2) for the word “crofters” there shall be substituted the word “tenants”.

## **3 Financial assistance by Secretary of State**

The Secretary of State may provide such assistance as he considers appropriate by way of grant or loan to any body to which he proposes to dispose of crofting property under section 1—

- (a) for the purpose of establishing the body; and
- (b) to defray expenditure incurred by the body by way of legal fees and other costs in connection with the transfer of the property to it.

#### **4 Disapplication of the 1897 Act**

Section 7 of the Congested Districts (Scotland) Act 1897 does not apply to any disposal of crofting property under this Act.

#### **5 Rights of pre-emption**

- (1) Where the Secretary of State disposes of any property under this Act, any right of pre-emption in respect of the property shall, by virtue of this section, be extinguished for all time coming.
- (2) Where the Secretary of State has disposed of any property under this Act he shall advertise the disposal in such manner as appears to him to be appropriate.
- (3) Where, within four months of the publication of an advertisement under subsection (2), no claim for compensation has been intimated to the Secretary of State by a person who is entitled to exercise a right of pre-emption in respect of the property, no compensation shall be payable in respect of the extinction of the right.
- (4) Where a claim for compensation is made within the period of four months the Secretary of State shall notify the claimant that he accepts or rejects the claim; and where the Secretary of State rejects a claim, the claimant may, within a period of six weeks from the date of notification of the rejection, apply to the Scottish Land Court for a determination that the claim is valid.
- (5) Where a claim for compensation is accepted by the Secretary of State or held to be valid by the Scottish Land Court the claimant shall be entitled to compensation of such amount—
  - (a) as may be agreed between him and the Secretary of State; or, failing such agreement,
  - (b) as may be found to be just by the Scottish Land Court on an application made by the claimant or the Secretary of State.
- (6) Subject to subsection (7), the Scottish Land Court shall have jurisdiction to determine all questions arising under this section.
- (7) No failure or omission of the Secretary of State or any other person to comply with any provision of this section shall affect the title to any property disposed of by the Secretary of State under this Act.
- (8) In this section “right of pre-emption” includes any such right created by any enactment, rule of law or in any document.

#### **6 Continuation of tenant’s entitlement to buy holding**

- (1) Where relevant property is disposed of by the Secretary of State under this Act, section 6(3) and (4) of the Land Settlement (Scotland) Act 1919 shall apply to the tenant of that property as if for the references to “the Board” or, as the case may be, “the Secretary of State” there were substituted references to the body to whom the Secretary of State disposes of the relevant property and any successor in title to such body.
- (2) A tenant’s period of occupation shall continue to run for the purposes of section 6(3) of the Land Settlement (Scotland) Act 1919 notwithstanding that the relevant property

has been disposed of by the Secretary of State to a body under this Act or to any successor in title.

- (3) In this section “relevant property” means property to which section 6(3) of the Land Settlement (Scotland) Act 1919 applies.

## **7 Interpretation**

- (1) In this Act—

“crofting interests” in relation to any property, means the persons with an interest in the property—

(a) as tenants; or

(b) by virtue of rights to use any common grazings forming part of the property;

“crofting property of the Secretary of State” and cognate expressions shall be construed in accordance with section 1(3);

“the 1993 Act” means the Crofters (Scotland) Act 1993.

- (2) Expressions used in this Act and in the 1993 Act shall, unless the context otherwise requires, have the same meaning as in that Act.

## **8 Short title, commencement and extent**

- (1) This Act may be cited as the Transfer of Crofting Estates (Scotland) Act 1997.
- (2) This Act shall come into force on such day as the Secretary of State may, by order made by statutory instrument, appoint.
- (3) This Act extends to Scotland only.