



Crofting Reform (Scotland) Act 2010

2010 asp 14

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 1st July 2010 and received Royal Assent on 6th August 2010

An Act of the Scottish Parliament to reform and rename the Crofters Commission; to provide for the establishment of a new register of crofts and for registration of crofts, common grazings and land held runrig in it; to make provision about the duties of crofters and certain owner-occupiers of crofts and for the enforcement of those duties; to make further amendments to the law on crofting; and for connected purposes.

PART 1

REORGANISATION OF THE CROFTERS COMMISSION

The Crofting Commission

1 The Crofting Commission

- (1) The Crofters Commission is renamed and is to be known as the Crofting Commission.
- (2) The “Crofters Commission” is the Commission—
 - (a) established by section 1 of the Crofters (Scotland) Act 1955 (c.21); and
 - (b) continued in being by section 1 of the Crofters (Scotland) Act 1993 (c.44) (the “1993 Act”).
- (3) For schedule 1 to the 1993 Act, substitute the schedule contained in schedule 1.
- (4) Any reference in any enactment to the Crofters Commission is, unless the contrary intention appears, to be construed as a reference to the Crofting Commission.

Commencement Information

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| I1 | S. 1(1)(2)(4) in force at 1.4.2012 by S.S.I. 2011/334 , art. 3(1)(b)(2) , Sch. Pt. 2 |
| I2 | S. 1(3) in force at 1.10.2011 for specified purposes by S.S.I. 2011/334 , art. 3(1)(a)(2) , Sch. Pt. 1 (with arts. 4, 5, 8) |
| I3 | S. 1(3) in force at 1.4.2012 in so far as not already in force by S.S.I. 2011/334 , art. 3(1)(b)(2) , Sch. Pt. 2 |

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Crofting Reform (Scotland) Act 2010. (See end of Document for details)

2 General functions of the Crofting Commission

- (1) In section 1 of the 1993 Act (constitution and general functions of Crofters Commission), for subsection (2) substitute—

“(2) The Commission have—

- (a) the general functions of—
 - (i) regulating crofting;
 - (ii) reorganising crofting;
 - (iii) promoting the interests of crofting;
 - (iv) keeping under review matters relating to crofting; and
- (b) such other functions conferred on them by or under this Act or under any other enactment.

- (2A) In exercising their functions under subsection (2), the Commission must have regard to—

- (a) the desirability of supporting population retention—
 - (i) in the crofting counties; and
 - (ii) in any area for the time being designated as mentioned in section 3A(1)(b) and in which there are crofts; and
- (b) the impact of changes to the overall area of land held in crofting tenure on the sustainability of crofting.”.

- (2) After section 2 of that Act insert—

“2A Ministers' power to modify functions of Commission

- (1) The Scottish Ministers may, by order—
 - (a) confer functions on;
 - (b) remove functions from;
 - (c) otherwise modify functions of,
 the Commission.
- (2) The Scottish Ministers may make an order under subsection (1) only where they consider it appropriate to do so to ensure that the Commission carry out their functions efficiently and effectively.
- (3) An order under subsection (1) may—
 - (a) confer on the Commission a function exercisable under this Act by the Scottish Ministers (other than a function to make regulations or orders);
 - (b) modify any enactment (including this Act).

2B Annual report

- (1) The Commission must make an annual report, on the exercise by them of their functions, to the Scottish Ministers.
- (2) That report must also contain the Commission's assessment of—
 - (a) the issues affecting crofting communities; and
 - (b) the contribution crofting has made to sustainable development.

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- (3) Before making an annual report, the Commission must consult—
 - (a) each local authority in the area of which there are crofts; and
 - (b) Highlands and Islands Enterprise.
- (4) The Scottish Ministers must lay before the Scottish Parliament a copy of each annual report made to them under this section together with any comments on the report that they consider appropriate.

2C Duty to produce plan

- (1) The Commission must, before the expiry of the period mentioned in subsection (2), prepare and submit to the Scottish Ministers a plan setting out their policy on how they propose to exercise their functions.
- (2) That period is the period of 6 months beginning with the day after—
 - (a) the day of the first election held in accordance with paragraph 7 of schedule 1 to elect persons to be members of the Commission;
 - (b) the day of each subsequent election.
- (3) The Commission must, before preparing a plan under this section, consult—
 - (a) each local authority in the area of which there are crofts;
 - (b) Highlands and Islands Enterprise; and
 - (c) such other persons or bodies as the Commission consider appropriate.
- (4) The Scottish Ministers may—
 - (a) approve the plan (with or without modifications); or
 - (b) reject the plan and direct the Commission to submit a revised plan.
- (5) Where the Scottish Ministers approve the plan submitted under subsection (1) (including a revised plan submitted under subsection (4)(b)), the Commission must—
 - (a) send a copy of it to each local authority in the area of which there are crofts;
 - (b) make a copy of it available for public inspection at reasonable times; and
 - (c) publish it in such manner as the Commission consider appropriate.
- (6) The Commission—
 - (a) may, from time to time;
 - (b) must, if required to do so by the Scottish Ministers, vary the plan.
- (7) Where the Commission, under subsection (6), vary the plan—
 - (a) the Commission must submit it to the Scottish Ministers; and
 - (b) subsections (3) to (5) apply to the variation of a plan as they apply to the preparation of a plan under subsection (1).

2D Status of plan

- (1) The Commission, in exercising their functions, must have regard to any plan approved and published under section 2C.

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- (2) The Land Court may have regard to any such plan when considering an appeal against—
- (a) any decision, determination or direction of; or
 - (b) the imposition of a condition by,
- the Commission on an application made to them under this Act.”.

Commencement Information

- I4** [S. 2\(1\)](#) in force at 1.10.2011 by [S.S.I. 2011/334](#), art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I5** [S. 2\(2\)](#) in force at 1.10.2011 for specified purposes by [S.S.I. 2011/334](#), art. 3(1)(a)(2), **Sch. Pt. 1** (with art. 4)
- I6** [S. 2\(2\)](#) in force at 1.4.2012 in so far as not already in force by [S.S.I. 2011/334](#), art. 3(1)(b)(2), **Sch. Pt. 2**

PART 2

THE CROFTING REGISTER

Duty to establish and maintain register

3 The Crofting Register

- (1) The Keeper of the Registers of Scotland must establish and maintain a public register of crofts, common grazings and land held runrig.
- (2) The register established under subsection (1) is to be known as the Crofting Register.
- (3) In this Part—
- the “Keeper” means the Keeper of the Registers of Scotland;
 - the “register” means the Crofting Register; and
 - “registered” means registered in the register; and cognate expressions are to be construed accordingly.

Commencement Information

- I7** [S. 3](#) in force at 30.10.2012 by [S.S.I. 2012/288](#), art. 3(1)(a)(2), **Sch. 1 Pt. 1**

Registration

4 First registration

- (1) An unregistered croft must be registered—
- (a) in the case of a new croft, subject to section 3AA of the 1993 Act, on the determination under section 3A(1) or, as the case may be, (2) of that Act to constitute the land or holding as a croft;

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- (b) in the case of an owner-occupied croft, subject to subsection (9), on the transfer (whether or not for valuable consideration) of the ownership of the croft;
 - (c) in any case other than the case of a new croft, on the taking, in relation to the croft, of any step mentioned in subsection (4) (or, in the case of a step mentioned in paragraph (p) of that subsection, in accordance with that paragraph).
- (2) An unregistered croft may be registered on an application being made by a person mentioned in subsection (3).
- (3) The person is—
 - (a) the owner of the land on which the croft is situated;
 - (b) the landlord;
 - (c) the crofter;
 - (d) where the croft is an owner-occupied croft, the owner-occupier crofter.
- (4) The steps referred to in subsection (1)(c) are—
 - (a) the making of an application for a direction enlarging the croft under section 4(4) of the 1993 Act;
 - (b) the making of an application for consent to exchange the croft under section 4A of that Act;
 - (c) the making of an application for consent to assign the croft under section 8 of that Act;
 - (d) the making of an application for consent to divide the croft—
 - (i) under section 9 of that Act; or
 - (ii) under section 19D of that Act;
 - (e) in the case of a bequest of the croft such as is mentioned in subsection (1)(a) of section 10 of that Act, the giving of notice under subsection (2) of that section of the acceptance of the bequest of that croft;
 - (f) the giving of notice under section 11(1) of that Act in respect of the transfer of the tenancy of the croft in pursuance of section 16(2) of the Succession (Scotland) Act 1964 (c.41);
 - (g) the making of an application under section 20(1) of the 1993 Act to resume the croft or part of the croft;
 - (h) the making of an order for reversion of a resumption of the croft under section 21A(1) of that Act;
 - (i) the making of an application for approval to the letting of the croft or any part of the croft under section 23(3) of that Act;
 - (j) the re-letting of the croft in accordance with proposals submitted under section 23(5) of that Act;
 - (k) the letting of the croft pursuant to a determination under section 23(5C) of that Act;
 - (l) the making of an application for a decrofting direction—
 - (i) by giving notice under section 24(2) of that Act;
 - (ii) by application under section 24(3) of that Act; ^{F1}...
 - [^{F2}(ia) by application under section 24A(1) of that Act; or]
 - (iii) by application under section 25(4) of that Act;
 - (m) the division of the croft, or owner-occupied croft, under section 26G of that Act;