

CROFTING REFORM ETC. ACT 2007

EXPLANATORY NOTES

BACKGROUND

The Act

Part 2: Crofts

Section 9: Exchange of crofts or parts of crofts

41. **Section 9** closes a loophole in the current legislation, whereby crofters, with the agreement of their landlord, were able to exchange croft land without the approval of the Commission. While on the face of it this existing practice allows ease of arrangements and is deregulatory, there was concern expressed about the longer term effects of such changes. The new section 4A inserted into the 1993 Act by section 9 requires that an exchange of a croft or parts of a croft requires the consent of the landlord and the Commission. It also requires that the crofters exchanging must also have the same landlord who must also be the owner of any common grazing land affected by the exchange. It provides that the Commission cannot consent to the exchange unless the landlord has consented. The provisions in new section 58A of the 1993 Act (inserted by section 3 of the Act) apply as regards the consent of the Commission with the additional criterion for intervention by the Commission in new section 4A(3) of the 1993 Act being that the proposed exchange would be unfair to either (or as the case may be any) of the crofters involved. Subsection 4A(4) confirms that a new croft is not be created by such an exchange.