

# CROFTING REFORM ETC. ACT 2007

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## EXPLANATORY NOTES

### BACKGROUND

#### *The Act*

#### **Part 3: Termination of Tenancy, Decrofting, Etc.**

#### **Section 23: Decrofting**

99. **Section 23(a)** amends section 24 of the 1993 Act so that the Commission are no longer bound in certain circumstances to decroft a croft which has become vacant through Commission action. At present if such a croft remains vacant for 6 months the landlord can within the next 3 months give notice to the Commission requiring the Commission to decroft it. The new provision allows the Commission to apply to the Land Court for an extension of the period in which the croft may remain vacant thus allowing more time to find a suitable new tenant. If the Land Court grants an extension the Commission will become liable to make a payment to the landlord equivalent to the rent which would be due for the period of the extension.
100. **Section 23(b)** amends section 25 of the 1993 Act to effect a number of changes. Section 25(1)(a) is amended so that the Commission must in addition have regard to the interests of the local crofting community in determining that a croft shall cease to be a croft. A new section 25(1)(c) is inserted to provide that the special arrangements for decrofting the site of a house would also apply to a croft which had been feued in accordance with the provisions of sections 17 or 18 of the 1955 Act (these were feus of house sites with existing houses to persons who had given up their croft for re-letting. Because there was no provision for decrofting these sites in the 1955 Act they have never been decrofted and thus are still in crofting tenure although no longer associated with other croft land).
101. Section 25(3) of the 1993 Act is amended to allow the Commission to impose timescales for any new use. New subsection (3A) enables the Commission to set a time limit within which the land being decrofted begins to be used for the purpose for which it has been decrofted and new subsection (3B) enables the Commission to modify the conditions that apply to a decrofting direction. However, the power given in section 25(3) to make a further direction specifying that land subject to a previous decrofting direction is a vacant croft is constrained by the circumstances specified in new subsection (3C).
102. New section 25(4A) makes two changes to the decrofting procedure. Firstly, it requires a crofter who is applying for a decrofting direction whilst still the croft tenant to inform the landlord of the application and, secondly, it provides that the Commission will not give a direction if implementation of the application would impede access to another part of the croft or other croft land.
103. **Section 23(b)** also replaces sections 25(7) and (8) with new subsections (7), (7A), and (8). The main effects are firstly, to require the Commission to notify the landlord, applicant and the public of any decrofting direction they make setting out details of the decision and secondly, to extend the right to appeal that decision in the Land Court, by way of a stated case and on one or more of the grounds mentioned in new

*These notes relate to the Crofting Reform etc. Act 2007  
(asp 7) which received Royal Assent on 1 March 2007*

section 52A(3), to the landlord and other members of the crofting community, with the time allowed for making that appeal specified as 42 days.