



# Crofting Reform etc. Act 2007

2007 asp 7

## PART 3

TERMINATION OF TENANCY, DECROFTING, ETC.

### 22 Resumption and reversion

- (1) In section 20 of the 1993 Act (resumption of croft or part of croft by landlord)—
- (a) in subsection (1), after the word “interest” there is inserted “or the interests of the crofting community in the locality of the croft”;
  - (b) after that subsection there is inserted—
    - “(1A) A landlord making application under subsection (1) above must give notice of it to the Commission; and the Commission may, if they think fit, oppose or support the application.
    - (1B) Without prejudice to the generality of subsection (1) above, resumption may be authorised under that subsection for a specified period of time (such resumption being in this Act referred to as “temporary resumption” and resumption other than for a specified period of time as “ordinary resumption”) and the land shall revert to being a croft (or to being part of a croft)—
      - (a) on the date on which the period (or as the case may be the period as extended under subsection (1D) below) elapses; or
      - (b) on such earlier date as the Land Court may specify in an order under section 21A(1) of this Act.
    - (1C) Subject to subsection (1D) below, the Land Court may, on the application of the landlord, extend the period specified under subsection (1B) above.
    - (1D) Where a planning permission granted for a limited period subsists for a change of the use of the land, being a change for which resumption was authorised, the Land Court must, on such application, extend the period so specified; but not to a date later than the end of the period specified in the condition under subsection (1)(b) of section 41 of the

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Town and Country Planning (Scotland) Act 1997 (c. 8) to which the permission is subject.

- (1E) In subsection (1D) above, “planning permission granted for a limited period” shall be construed in accordance with subsection (3) of that section.
- (1F) The Land Court may, on the application of the landlord made before the expiry of the specified period of time referred to in subsection (1B) above, determine that a resumption authorised as a temporary resumption is to be taken to be an ordinary resumption; and where such a determination is made—
- (a) subsections (1B) to (1D) above and the exception to subsection (2)(b) of section 21A of this Act shall cease to be applicable as respects the resumption; and
  - (b) the Land Court may determine (either or both)—
    - (i) that the landlord shall make further compensation under subsection (1) above;
    - (ii) that the crofter shall, under section 21(1) of this Act, be entitled to a further share in the value of the land.”.
  - (c) in subsection (3)(a), after sub-paragraph (viii) (but before the word “or” which immediately follows that sub-paragraph), there is inserted—
 

“(viiiia) the generation of energy;”.
- (2) In section 21 of the 1993 Act (crofter’s right to share in value of land resumed by landlord)—
- (a) after subsection (1) there is inserted—
 

“(1A) If it thinks fit the Land Court may, having regard to how the purpose for which resumption is authorised is to be carried out, determine that a sum awarded under this section shall be payable in instalments of such amounts and on such dates as it shall specify in the determination.

(1B) On making a determination under subsection (1A), the Land Court shall intimate to the Commission that it has done so and provide them with a copy of the determination; and the Commission shall enter that copy in the Register of Crofts.

(1C) When so entered the determination shall bind any successor to the landlord as it binds the landlord.”; and
  - (b) in subsection (6), after the word “payable” there is inserted “, or in the case of payment by instalments as from the date when the unpaid balance of such sum is payable,”.
- (3) After section 21 of the 1993 Act, there is inserted—

**“21A Reversion of resumed land**

- (1) The Land Court may, on the application of any relevant person and on being satisfied that the conditions specified in subsection (2) below are met, make an order that land resumed by virtue of section 20(1) of this Act shall revert to being a croft (or to being part of a croft).

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- (2) The conditions are—
- (a) no debt is for the time being secured by way of a standard security over, or over any real right in, the land or any part of it;
  - (b) except in the case of a temporary resumption, not less than 5 nor more than 20 years have elapsed since the resumption of the croft was authorised;
  - (c) the purpose for which the landlord desired to resume the croft has not been carried out;
  - (d) no planning permission relating to a change of the use of the land subsists;
  - (e) the land remains suitable for use by crofters for cultivation; and
  - (f) the land is owned by the person who was authorised to resume the croft.
- (3) For the purposes of subsection (2)(e) above, “cultivate” has the same meaning as in Schedule 2 to this Act.
- (4) Where land reverts by virtue of subsection (1) above, the Land Court may make such order (if any) as it thinks fit as to the repayment, in whole or in part, of any sum awarded as compensation under section 20(1), or any share in value paid by virtue of section 21(1), of this Act.
- (5) Where land which reverts by virtue of subsection (1) above or under section 20(1B) of this Act comprises a common grazing, the Land Court may make such order as it thinks fit as to shares in the common grazing.
- (6) “Relevant person” in subsection (1) above means the Commission, the landlord, the person who surrendered the land or, where the land comprises a common grazing, the owner or the grazings committee.”.

## 23 Decrofting

In the 1993 Act—

- (a) in section 24 (decrofting in case of resumption or vacancy of croft)—
- (i) in subsection (2), after the words “do so” there are inserted the following paragraphs—
    - “(a) forthwith or on the refusal of an application made under paragraph (b) below; or
    - (b) at the end of such further period as the Land Court, on the application of the Commission, may allow;”;
  - (ii) after that subsection there is inserted—
    - “(2A) Where a further period is allowed by virtue of subsection (2) (b) above, the Commission shall be liable to the landlord for an amount equal to the rent which would have been payable for the croft in respect of that period.”;
- (b) in section 25 (provisions supplementary to section 24(3))—
- (i) in subsection (1)(a), after the word “interest” there is inserted “or to the interests of the crofting community in the locality of the croft”;
  - (ii) in subsection (1), after paragraph (b) there is added “or

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- (c) the application is made in respect of a croft the conveyance in feu of which was granted under section 17 or 18 of the 1955 Act”;
- (iii) in subsection (2), for the words “(1)(b)” there is substituted “(1)(b) or (c)”;
- (iv) in subsection (3), after the word “conditions” there is inserted “(which may include provision as to timescales)”;
- (v) after subsection (3) there is inserted—

“(3A) Conditions imposed by virtue of subsection (3) above may include a condition that the use be initiated by a time specified in the condition.

(3B) The Commission may from time to time modify any conditions so imposed.

(3C) No such further direction as is mentioned in subsection (3) above shall be made if—

- (a) more than 20 years have elapsed since the direction under section 24(3) of this Act;
- (b) the land, or any part of it, has, since the direction under that section, been conveyed to a person other than the former crofter or a member of the former crofter’s family; or
- (c) a debt is for the time being secured by way of a standard security over, or over any real right in, the land or any part of it.”;
- (vi) after subsection (4) there is inserted—

“(4A) Written notice of an application under subsection (4) above made in respect of a part of a croft consisting only of the site of the dwelling-house on or pertaining to the croft shall be given to the landlord by the applicant; and the Commission—

- (a) shall not give a direction by virtue of that subsection on an application so made unless they are satisfied (in addition to what is required by subsection (1)(b) above) that; and
- (b) may include in any such direction conditions for the purpose of ensuring that,
 

implementation of the proposal would not prevent or impede access to another part of the croft or to other croft land.”; and

(vii) for subsections (7) and (8) there is substituted—

“(7) The Commission shall give both—

- (a) notice in writing to the applicant; and
- (b) public notification,

of their direction on an application made to them under the said section 24(3) or subsection (4) above, specifying the nature of and the reasons for the direction and, as the case may be, for any conditions imposed in the direction.

(7A) The Commission shall—

- (a) give written notification to the owner of land—
    - (i) to which a further direction under subsection (3) above relates of the making of that direction; and
    - (ii) of the modification, under subsection (3B) above, of a condition which relates to that land; and
  - (b) give public notification of those matters.
- (8) As regards—
- (a) a direction (including a condition in a direction) by the Commission on an application—
    - (i) under section 24(3) of this Act, the applicant or any member of the crofting community in the locality of the land;
    - (ii) under subsection (4) above, the applicant or the owner of the land,may within 42 days after the giving of public notification of the making of the direction;
  - (b) a modification under subsection (3B) above, of a condition which relates to land, the owner, or any tenant of the land or any member of the crofting community in the locality of the land, may within 42 days after the giving of public notification of the modification; or
  - (c) a further direction under subsection (3) above, the owner, or any tenant, of the land, may within 42 days after the making of that direction,
- appeal by way of stated case, on one or more of the grounds mentioned in section 52A(3) of this Act, to the Land Court.

(8A) For the purposes of this section, the references in section 52A(3) to a “direction” are to be construed as including references to a modification.

- (8B) In an appeal under subsection (8) above the Court may—
- (a) confirm or revoke the direction or modification;
  - (b) direct the Commission to make a different direction or modification; or
  - (c) remit the case to the Commission without so directing them.”.

## 24 Re-letting

In section 23 of the 1993 Act (vacant crofts)—

- (a) for subsection (3) there is substituted—

“(3) The landlord of a croft shall not, without the approval of the Commission, let the croft or any part of it to any person; and any letting of the croft otherwise than with such approval shall be null and void.

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(3A) In the case of an application made by virtue of subsection (3) above, the following special conditions apply for the purposes of section 58A(6)

(b)(ii) of this Act—

- (a) that the proposed tenant lives, or intends to live, more than 16 kilometres distant from the croft;
- (b) that he already owns or is tenant of a croft;
- (c) that he lacks the knowledge, abilities and experience to cultivate the croft or as the case may be to put it to such other purposeful use as he intends;
- (d) that he is the grazings clerk, a member of the grazings committee, the owner of the common grazing or a member of the landlord's family;
- (e) where the landlord is not a natural person, that the proposed tenant is a member or employee, or is a member of the family of a member or employee, of the body which constitutes the landlord; and
- (f) that there are reasonable grounds for concern over the use to which the proposed tenant intends to put the croft.”;

(b) in subsection (5)—

(i) at the beginning there is inserted “Subject to subsection (5A) below,”; and

(ii) for the words from “the Commission refuse” to the end of the proviso there is substituted “the Commission's approval of them is not obtained, the Commission must proceed in accordance with subsections (5B) and (5C) below.

(5A) Where the croft is declared vacant in pursuance of section 11(8) of this Act, if, within a period of four months from the giving of notice under that section, the proposals required by that notice to be submitted are not submitted or the Commission's approval of them is not obtained, the Commission must proceed in accordance with subsections (5B) and (5C) below.

(5B) The Commission shall, by public notification, invite applications for tenancy of the croft within such period as shall be specified in the notification.

(5C) When that period has elapsed, the Commission shall determine—

- (a) to which of the applicants (if any) to let the croft; and
- (b) in consultation with the landlord, on what terms and conditions.”.

## **25 Compensation for improvements for purposes other than cultivation or grazing etc.**

In section 30 of the 1993 Act (compensation to crofter for improvements), after subsection (6) there is inserted—

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“(6A) Subject to subsection (6B) below, in this Act “improvement” does not include anything erected or carried out wholly for—

- (a) putting a croft to such other purposeful use as is mentioned in paragraph 3(b) of Schedule 2 to this Act; or
- (b) using part of a common grazing for a purpose other than is mentioned in paragraph (a) or (b) of section 50B(1) of this Act.

(6B) Subsection (6A) above does not apply if—

- (a) in any written consent given under section 5(7)(a) of this Act as respects the use in question, the landlord agrees that the subsection should not apply; or
- (b) before the Commission approve under section 50B(11) of this Act implementation of the proposal for the use in question, the owner gives written intimation to the proposer that, as respects that use, he so agrees.”.