

CROFTING REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 1 – Reorganisation of the Crofters Commission

The Crofting Commission

Section 1: The Crofting Commission

4. Subsection (1) renames the “Crofters Commission” the “Crofting Commission” to reflect the changes in their functions by virtue of section 2 of the Act. Subsection (3) replaces schedule 1 to the 1993 Act with a new schedule 1. Subsection (4) states that where reference is made to the Crofters Commission in any enactment this is a reference to the Crofting Commission unless there is a clear intention to the contrary.

Section 2: General functions of the Crofting Commission

5. **Section 2** of the Act relates to the general functions of the Commission and makes amendments to the general functions that are conferred on the Crofters Commission under the 1993 Act. Subsection (1) replaces section 1(2) of the 1993 Act. The effect of this is that the Commission will continue to have responsibility for reorganising, regulating and keeping under review matters relating to crofting. The Commission will also be responsible for promoting the interests of crofting; however, the Commission will no longer have responsibility for the development of crofting, which function was transferred to Highlands and Islands Enterprise on 1 April 2009 through administrative means. Section 1(2A) of the 1993 Act, inserted by subsection (1), provides that the Commission must, in exercising their functions, have regard to the desirability of supporting population retention in the crofting counties and any area designated as a new crofting area as well as the effect of changes in the amount of land held in crofting tenure on the sustainability of crofting.
6. Subsection (2) inserts four new sections into the 1993 Act – sections 2A, 2B, 2C and 2D. Section 2A enables the Scottish Ministers to confer, remove and modify the functions of the Commission by order, but only where it is appropriate to do so to ensure that the Commission carries out their functions efficiently and effectively. New section 2B requires the Commission to report on their performance, and the Commission is also required to assess the issues affecting crofting communities and the contribution crofting has made to sustainable development. In carrying out this requirement, the Commission is required to consult each local authority in whose area there are crofts, and Highlands and Islands Enterprise. The Scottish Ministers are required to lay a copy of the annual report before the Scottish Parliament with any appropriate comments.
7. Section 2C requires the Commission to produce a plan setting out their policy on how they propose to carry out their functions. This plan must be submitted to the Scottish Ministers within 6 months of the day after the first election of members of the Commission or the day after subsequent elections. This will enable members to

*These notes relate to the Crofting Reform (Scotland) Act
2010 (asp 14) which received Royal Assent on 6 August 2010*

create policies as to the running of the Commission once they are appointed. Subsection (3) requires that the Commission consult with each local authority in areas where there are crofts, Highlands and Islands Enterprise and any other persons or bodies the Commission considers appropriate before preparing their plan. Subsection (4) allows Ministers to approve the plan or reject it and direct the Commission to submit a revised plan. Furthermore, subsection (7) requires that where the Commission vary their plan (whether voluntarily or following a requirement from Scottish Ministers), they must consult on the new proposal and seek Ministers' approval, as outlined in subsections (3) and (4). Once approved, the Commission must make the plan available, as outlined in subsection (5).

8. Section 2D refers to the status of a plan approved under section 2C and obliges the Commission to have regard to their approved plan when discharging any of their functions. Also, where the Scottish Land Court is considering an appeal against a decision by the Commission, they too may have regard to this plan.