

CROFTING REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 4 – Further Amendments of the 1993 Act

Disposal of croft land, resumption and decrofting

Section 40: Limitation on crofter’s ability to nominate donee

110. New section 40 inserts into section 13 of the 1993 Act (authorisation of the Land Court of acquisition of croft land) new subsection (1A) which clarifies that any nominee of the crofter exercising the right to buy the croft must be a family member.

Section 41: Extension of period during which sum is payable on disposal of croft land

111. **Section 41** amends subsection (3) of section 14 of the 1993 Act to extend the period during which a crofter who has acquired croft land under section 13(1), or a member of that crofter’s family who has since obtained title to that land, must pay the landlord one half of the profit made following disposal of the land. The period is extended from 5 years to 10 years.

Section 42: Consideration of application to resume croft

112. **Section 42** amends the 1993 Act by inserting new sections (1AA) to (1AD) into section 20 of that Act. Section 20 deals with resumption of croft land and the amendments will allow the Land Court to consider additional factors when determining resumption applications.
113. New subsection (1AA) details the additional matters which the Land Court may take into account in determining an application to resume croft land and, in particular, in relation to satisfying itself, under section 20(1) of the 1993 Act, that the proposed reasonable purpose for resumption relates to the public interest. Subsection (1AA)(a) allows the Court to take into account the effect the proposed purpose for resumption will have on the issues detailed in new section (1AC). These issues include the sustainability of crofting in the locality of the croft and the sustainability of the crofting community in that area, as well as the sustainability of the landscape and environment in that area. It also allows the Court to consider the effect the proposal to resume would have on the social and cultural benefits associated with crofting. Subsection (1AA)(b) allows the Court to consider the effects of the purpose of the application and reach its own conclusion on whether the proposal and decrofting the land are in the public interest, notwithstanding the existence of planning permission. Subsection (1AB) provides that new subsection (1AA) does not affect the requirement for the Land Court to extend the period of resumption in line with an extension of a relevant planning consent. Subsection (1AD) defines terms used in new section (1AA).

Section 43: Consideration of decrofting directions

114. Section 43 of the Act amends the 1993 Act by inserting new sections (1A) to (1C) into section 25 of that Act. Section 25 of the 1993 Act deals with decrofting and the amendments will allow the Commission to consider additional factors when determining applications to decroft.
115. This will allow the Commission to take into consideration the same factors when determining applications to decroft land as the Land Court may consider when considering applications to resume croft land following the amendments made by section 42 of the Act.
116. New subsection (1A) details the additional matters which the Commission may take into account in determining a decrofting application and, in particular, in relation to satisfying themselves, under section 25(1)(a) of the 1993 Act, that the proposed reasonable purpose for decrofting relates to the public interest. Subsection (1A)(a) allows the Commission to take into account the effect the proposed purpose for decrofting will have on the issues detailed in new section (1B). These issues include the sustainability of crofting in the locality of the croft and the sustainability of the crofting community in that area, as well as the sustainability of the landscape and environment in that area. It also allows the Commission to consider the effect the proposal to decroft would have on the social and cultural benefits associated with crofting. Subsection (1A)(b) allows the Commission to consider the effects of the purpose of the application and reach their own conclusion on whether the proposal and decrofting the land are in the public interest, notwithstanding the existence of planning permission. Subsection (1C) defines terms used in new subsection (1A).