



# Crofting Reform (Scotland) Act 2010

## 2010 asp 14

### PART 2

#### THE CROFTING REGISTER

##### *Registration*

#### **4 First registration**

- (1) An unregistered croft must be registered—
  - (a) in the case of a new croft, subject to section 3AA of the 1993 Act, on the determination under section 3A(1) or, as the case may be, (2) of that Act to constitute the land or holding as a croft;
  - (b) in the case of an owner-occupied croft, subject to subsection (9), on the transfer (whether or not for valuable consideration) of the ownership of the croft;
  - (c) in any case other than the case of a new croft, on the taking, in relation to the croft, of any step mentioned in subsection (4) (or, in the case of a step mentioned in paragraph (p) of that subsection, in accordance with that paragraph).
- (2) An unregistered croft may be registered on an application being made by a person mentioned in subsection (3).
- (3) The person is—
  - (a) the owner of the land on which the croft is situated;
  - (b) the landlord;
  - (c) the crofter;
  - (d) where the croft is an owner-occupied croft, the owner-occupier crofter.
- (4) The steps referred to in subsection (1)(c) are—
  - (a) the making of an application for a direction enlarging the croft under section 4(4) of the 1993 Act;
  - (b) the making of an application for consent to exchange the croft under section 4A of that Act;

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- (c) the making of an application for consent to assign the croft under section 8 of that Act;
  - (d) the making of an application for consent to divide the croft—
    - (i) under section 9 of that Act; or
    - (ii) under section 19D of that Act;
  - (e) in the case of a bequest of the croft such as is mentioned in subsection (1) (a) of section 10 of that Act, the giving of notice under subsection (2) of that section of the acceptance of the bequest of that croft;
  - (f) the giving of notice under section 11(1) of that Act in respect of the transfer of the tenancy of the croft in pursuance of section 16(2) of the Succession (Scotland) Act 1964 (c.41);
  - (g) the making of an application under section 20(1) of the 1993 Act to resume the croft or part of the croft;
  - (h) the making of an order for reversion of a resumption of the croft under section 21A(1) of that Act;
  - (i) the making of an application for approval to the letting of the croft or any part of the croft under section 23(3) of that Act;
  - (j) the re-letting of the croft in accordance with proposals submitted under section 23(5) of that Act;
  - (k) the letting of the croft pursuant to a determination under section 23(5C) of that Act;
  - (l) the making of an application for a decrofting direction—
    - (i) by giving notice under section 24(2) of that Act;
    - (ii) by application under section 24(3) of that Act; <sup>F1</sup> ...
    - [<sup>F2</sup>(ia) by application under section 24A(1) of that Act; or]
    - (iii) by application under section 25(4) of that Act;
  - (m) the division of the croft, or owner-occupied croft, under section 26G of that Act;
  - (n) the letting of the croft—
    - (i) in accordance with proposals submitted under section 26J(1) of that Act; or
    - (ii) pursuant to a decision under section 26J(8) of that Act;
  - (o) the making of an application for consent to the letting of the croft or any part of the croft under section 29A(1) of that Act other than such a letting under a short lease (within the meaning of section 29A(4) of that Act);
  - (p) the preparation, under section 38(8)(a) of that Act, of a reorganisation scheme which includes provision—
    - (i) forming the croft;
    - (ii) making any change to, or in relation to, the croft;

and in such a case, the croft may not be registered until the condition mentioned in paragraph (a) or (b) of section 39(1) of that Act (whichever first occurs) is satisfied in relation to the scheme;
  - (q) the making of an application by the crofter of the croft for a part of a common grazing to be apportioned under section 52(4) of that Act.
- (5) The Scottish Ministers may, by order, modify subsection (4) so as to—
- (a) add a step to;
  - (b) modify the description of a step in;

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- (c) remove a step from,  
that subsection.
- (6) But an order under subsection (5) may not add, as a step to subsection (4), the transfer (whether or not for valuable consideration) of the ownership of any land on which the croft is situated.
- (7) Where the Scottish Ministers exercise the power in subsection (5), they may by order modify Table 1 in schedule 2 so as to—
- (a) add a step to column 1 of that table;
  - (b) modify the description of any step mentioned in that column;
  - (c) remove a step from that column;
  - (d) add a person to column 2 of that table;
  - (e) modify the description of any person mentioned in that column;
  - (f) remove a person from that column.
- (8) The Scottish Ministers may, by regulations, make provision about when ownership is to be treated as transferred for the purposes of subsection (1)(b).
- (9) A person who, but for this subsection, would be required to register an owner-occupied croft by virtue of subsection (1)(b), need not register the croft if a step mentioned in subsection (4) is taken in relation to the croft.
- (10) In sections 5 to 19, “first registration” means the registration of an unregistered croft.
- (11) In this Part—  
“croft”—
- (a) in relation to an unregistered croft, means—
    - (i) a holding which is a croft within the meaning of section 3 of the 1993 Act; or
    - (ii) a new croft;
  - (b) in relation to a registered croft, means a holding which is a croft within the meaning of section 3ZA of that Act;
- “new croft” means land or a holding in relation to which the Commission have made a determination, under section 3A(1) or, as the case may be, (2) of the 1993 Act, to constitute the land or holding as a croft.

#### Textual Amendments

- F1** Word in s. 4(4)(1) omitted (retrospective to 1.10.2011) by virtue of [Crofting \(Amendment\) \(Scotland\) Act 2013 \(asp 10\)](#), ss. 3, 6, [Sch. para. 2\(2\)\(a\)](#)
- F2** S. 4(4)(1)(ia) inserted (retrospective to 1.10.2011) by [Crofting \(Amendment\) \(Scotland\) Act 2013 \(asp 10\)](#), ss. 3, 6, [Sch. para. 2\(2\)\(b\)](#)

#### Commencement Information

- I1** S. 4 in force at 30.10.2012 for specified purposes by [S.S.I. 2012/288](#), art. 3(1)(a)(2), [Sch. 1 Pt. 1](#)
- I2** S. 4(2)(3) in force at 30.11.2012 in so far as not already in force by [S.S.I. 2012/288](#), art. 3(1)(b)(2), [Sch. 1 Pt. 2](#)
- I3** S. 4(10)(11) in force at 30.11.2012 in so far as not already in force by [S.S.I. 2012/288](#), art. 3(1)(b)(2), [Sch. 1 Pt. 2](#) (with [Sch. 2 para. 1\(a\)](#))

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## 5 Registration of events affecting registered crofts

- (1) The following events in relation to a registered croft must be registered, that is—
- (a) in the case of an owner-occupied croft, the transfer (whether or not for valuable consideration) of ownership of the croft;
  - (b) in any case other than the case of an owner-occupied croft—
    - (i) the transfer (whether or not for valuable consideration) of the ownership of any land on which the croft is situated;
    - (ii) a change of landlord of the croft;
  - (c) in any case, the taking, in relation to the croft, of any step mentioned in subsection (3).
- (2) But subsection (1) does not apply to a croft—
- (a) which was registered as a result of the taking of a step mentioned in subsection (4) of section 4 (other than a step mentioned in paragraph (e), (f), (h), (j), (k), (m), (n) or (p) of that subsection); and
  - (b) in respect of which a step mentioned in subsection (3) constitutes a change affecting the croft which requires to be notified to the Keeper under section 10.
- (3) The steps referred to in subsection (1)(c) are—
- (a) the enlargement of the croft under section 4 of the 1993 Act;
  - (b) the exchange of the croft under section 4A of that Act;
  - (c) the assignation of the croft under section 8 of that Act;
  - (d) the division of the croft—
    - (i) under section 9 of that Act; or
    - (ii) under section 19D of that Act;
  - (e) in the case of a bequest of the croft such as is mentioned in subsection (1) (a) of section 10 of that Act, the giving of notice under subsection (2) of that section of the acceptance of the bequest of that croft;
  - (f) the transfer of the crofter's interest in a lease of the croft under section 16(2) of the Succession (Scotland) Act 1964 (c.41);
  - (g) the giving of authorisation to resume the croft or part of the croft under section 20(1) of the 1993 Act;
  - (h) the granting under section 20(1C) of that Act of an extension of the period for which resumption of the croft is authorised;
  - (i) the making of a determination under section 20(1F) of that Act converting a temporary resumption of the croft into an ordinary resumption;
  - (j) the making of an order under section 21A of that Act that land resumed under section 20 is to revert to being a croft;
  - (k) the letting (or, as the case may be, re-letting) of the croft—
    - (i) (or part of the croft) under section 23(3) of that Act;
    - (ii) in accordance with proposals submitted under section 23(5) of that Act;
    - (iii) pursuant to a determination under section 23(5C) of that Act;
    - (iv) (or part of the croft) under section 29A(1) of that Act other than such a letting under a short lease (within the meaning of section 29A(4) of that Act);
  - (l) the making of a decrofting direction under section 24(2) or [F3(3) or, as the case may be, 24B(1)] of that Act;

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- (m) the division of the croft, or owner-occupied croft, under section 26G of that Act;
  - (n) the letting of the croft—
    - (i) in accordance with proposals submitted under section 26J(1) of that Act;
    - (ii) pursuant to a decision under section 26J(8) of that Act;
  - (o) the making of a change to, or in relation to, the croft by virtue of a provision of a reorganisation scheme prepared under section 38(8)(a) of that Act;
  - (p) the apportionment of a part of a common grazing to the crofter of the croft under section 52(4) of that Act;
  - (q) the bringing to an end, under subsection (12) of section 52 of that Act, of an apportionment of a part of a common grazing to the crofter of the croft under subsection (4) of that section.
- (4) The Scottish Ministers may, by order, modify subsection (3) so as to—
- (a) add a step to;
  - (b) modify the description of a step in;
  - (c) remove a step from,
- that subsection.
- (5) Where the Scottish Ministers exercise the power in subsection (4), they may by order modify Table 2 in schedule 2 so as to—
- (a) add a step to column 1 of that table;
  - (b) modify the description of any step mentioned in that column;
  - (c) remove a step from that column;
  - (d) add a person to column 2 of that table;
  - (e) modify the description of any person mentioned in that column;
  - (f) remove a person from that column.
- (6) The Scottish Ministers may, by regulations, make provision about when ownership is to be treated as transferred for the purposes of subsection (1)(a) and (b)(i).

#### **Textual Amendments**

**F3** Words in s. 5(3)(l) substituted (retrospective to 1.10.2011) by [Crofting \(Amendment\) \(Scotland\) Act 2013 \(asp 10\)](#), ss. 3, 6, [Sch. para. 2\(3\)](#)

#### **Commencement Information**

**I4** S. 5 in force at 30.10.2012 for specified purposes by [S.S.I. 2012/288](#), art. 3(1)(a)(2), [Sch. 1 Pt. 1](#)

**I5** S. 5 in force at 30.11.2012 in so far as not already in force by [S.S.I. 2012/288](#), art. 3(1)(b)(2), [Sch. 1 Pt. 2](#)

## **6 Persons responsible for applications for registration**

- (1) An application for first registration of a croft is to be submitted—
- (a) in the case of a transfer of ownership of an owner-occupied croft such as is mentioned in section 4(1)(b), by the person to whom such ownership is transferred;

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- (b) in the case of a step mentioned in section 4(4), by the person mentioned in the entry in column 2 of Table 1 in schedule 2 which corresponds to the entry relating to that step in column 1 of that table.
- (2) An application for registration of an event in relation to a registered croft is to be submitted—
- (a) in the case of a transfer of ownership of a owner-occupied croft such as is mentioned in section 5(1)(a), by the person to whom such ownership is transferred;
  - (b) in the case of a transfer of ownership of land such as is mentioned in section 5(1)(b)(i), by the person to whom such ownership is transferred;
  - (c) in the case of a change of landlord of the croft, by the person who is the new landlord;
  - (d) in the case of a step mentioned in section 5(3), by the person mentioned in the entry in column 2 of Table 2 in schedule 2 which corresponds to the entry relating to that step in column 1 of that table.

#### Commencement Information

**I6** S. 6(2) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2

## 7 Applications for registration

- (1) Subject to subsection (7), an application for registration, and the fee payable in respect of such registration, is to be submitted to the Commission.
- (2) An application for first registration is to be submitted, in the case of a new croft, at the same time as an application under section 3A(1) or, as the case may be, (2) of the 1993 Act.
- (3) The Commission must, as soon as reasonably practicable after receiving an application for registration—
  - (a) in the case of an application for first registration (other than of a new croft or other than as a result of the taking of the step mentioned in section 4(4)(p)), check the information contained in or accompanying the application against the information relating to the croft, if any, in the Register of Crofts; and
  - (b) subject to section 3AA of the 1993 Act and to subsections (4) and (5), forward—
    - (i) the application, together with any comments they may have on it; and
    - (ii) the fee payable in respect of it,
 to the Keeper.
- (4) The Commission may, before forwarding an application for registration to the Keeper, require the applicant to provide them with such further information relating to the application as they consider appropriate.
- (5) The Commission may refuse to forward an application for registration if—
  - (a) a requirement made under subsection (4) is not complied with;
  - (b) the application is frivolous or vexatious;
  - (c) the fee payable in respect of the registration has not been tendered;
  - (d) there is a material inaccuracy in the application; or

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- (e) they consider that the Keeper would otherwise not accept the application under section 8(2).
- (6) Where the Commission refuse to forward an application for registration, section 52A of the 1993 Act applies as if that refusal were a decision of the Commission on an application to them under that Act.
- (7) This section does not apply to an application for registration by the Commission (a “Commission application”); and the reference in section 8(1) to an application for registration forwarded under subsection (3)(b) of this section is, in relation to a Commission application, to be construed as a reference to the Commission application submitted to the Keeper.
- (8) In subsection (5)(d), “material inaccuracy” means an inaccuracy relating to any matter mentioned in section 11(2).

#### **Commencement Information**

**I7** S. 7(1)(3)-(8) in force at 30.11.2012 by [S.S.I. 2012/288](#), [art. 3\(1\)\(b\)\(2\)](#), [Sch. 1 Pt. 2](#) (with [Sch. 2 para. 1\(b\)](#))

## **8 Acceptance of applications for registration**

- (1) Subject to subsection (2), the Keeper must accept an application for registration forwarded under section 7(3)(b) if it is accompanied by such documents and other evidence as the Keeper may require.
- (2) An application for registration must not be accepted by the Keeper if—
  - (a) it relates to a croft which is not sufficiently described to enable the Keeper to identify it by reference to the ordnance map or such other map as the Keeper may require;
  - (b) the information otherwise contained in or accompanying it would not enable the Keeper to make up or, as the case may be, amend the registration schedule of the croft;
  - (c) in a case where the application relates to a registered croft, the application does not bear a reference to the registration schedule of that croft;
  - (d) payment of the fee payable in respect of such registration has not been tendered.
- (3) But the Keeper may accept an application for registration despite the fact that the description of the croft includes land which is already entered in the registration schedule of—
  - (a) another croft;
  - (b) a common grazing; or
  - (c) land held runrig,as part of the description of the land which comprises that other croft, that common grazing or, as the case may be, that land held runrig.
- (4) On receipt of an application for registration, the Keeper must without delay note the date of receipt.
- (5) That date is deemed for the purposes of this Part as the date of registration provided the Keeper, after examination, accepts the application and, in the case of a first registration

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(other than of a new croft or other than as a result of the taking of the step mentioned in section 4(4)(p))—

- (a) no application is made to the Land Court under section 14(1); or
- (b) such an application having been made—
  - (i) the application has been abandoned; or
  - (ii) the Court makes no order or makes an order under section 14(4)(b).

#### Commencement Information

**18** S. 8 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2 (with Sch. 2 para. 1(c))

## 9 Completion of registration

- (1) The Keeper must complete registration—
  - (a) in the case of a first registration, by making up a registration schedule for the croft in the register in accordance with section 11;
  - (b) in the case of a registered croft, by making such amendment as is necessary to the registration schedule of the croft;
  - (c) in either case, by making such consequential amendments in the register as are necessary.
- (2) Where the Keeper completes a first registration under subsection (1), the Keeper must issue to the applicant a certificate, authenticated as the Keeper considers appropriate—
  - (a) confirming the registration;
  - (b) (except where the first registration is of a new croft or is as a result of the taking of the step mentioned in section 4(4)(p)), noting that the registration may be challenged under section 14(1);
  - (c) containing such other information as the Keeper considers appropriate.
- (3) Where, by virtue of being the applicant, the Commission receive a certificate under subsection (2), they must send a copy of the certificate to the crofter or owner-occupier crofter of the croft to which the certificate relates.
- (4) When issuing a certificate under subsection (2) (other than one relating to the first registration of a new croft or a first registration as a result of the taking of the step mentioned in section 4(4)(m) or (p)), the Keeper must at the same time send a copy of it to the Commission.
- (5) A certificate issued under subsection (2) is to be accepted for all purposes as sufficient evidence of the registration of the croft.
- (6) In this Part, “certificate of registration” means a certificate issued under subsection (2).

#### Commencement Information

**19** S. 9 in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), Sch. 1 Pt. 2 (with Sch. 2 para. 1(d)(e))

## 10 Completion of registration: further provision on first registrations

- (1) This section applies where, in relation to a first registration (other than of a new croft or other than as a result of the taking of the step mentioned in section 4(4)(p))—



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- (a) no application is made to the Land Court under section 14(1) before the expiry of the period mentioned in section 12(5); or
  - (b) such an application having been made—
    - (i) the application has been abandoned; or
    - (ii) the Court makes no order or makes an order under section 14(4)(b).
- (2) Subject to subsection (3), the Keeper must—
  - (a) make such amendment as is necessary of the registration schedule of the croft; and
  - (b) make such consequential amendments in the register as are necessary.
- (3) Where—
  - (a) the application for first registration was made as a result of the taking, in relation to a croft, of a step mentioned in subsection (4) of section 4 (other than a step mentioned in paragraph (e), (f), (h), (j), (k), (m), (n) or (p) of that subsection); and
  - (b) the Keeper is notified, in accordance with the provisions of this section, of a change affecting the croft as a result of the taking of that step,the Keeper must amend the registration schedule or, as the case may be, the register accordingly.
- (4) The person taking the step mentioned in paragraph (a), (b), (c), (g), (i), (o) or (q) of subsection (4) of section 4 must, within 3 months of the granting of the application mentioned in the step, notify the Commission that a change such as is mentioned in subsection (3) has taken effect.
- (5) Where the Commission are not notified of a change in accordance with subsection (4), the change is (notwithstanding any provision to the contrary) deemed not to have taken effect.
- (6) As soon as reasonably practicable after being notified under subsection (4), the Commission must notify the Keeper accordingly.
- (7) Where a change such as is mentioned in subsection (3) is a result of the taking of a step mentioned in paragraph (d)(i), (d)(ii), (l)(i), (l)(ii) [<sup>F4</sup>, (l)(ia)] or (l)(iii) of subsection (4) of section 4, the Commission must notify the Keeper of that change in accordance with subsection (8).
- (8) Notification under subsection (7) must be given—
  - (a) in the case of the division of a croft under section 9 or 19D of the 1993 Act, as soon as reasonably practicable after the Commission consent to the division (such division taking effect only on receipt of the notification);
  - (b) in the case of the decrofting of a croft pursuant to a direction under section 24(2) or (3) [<sup>F5</sup> or 24B(1)] of that Act, as soon as reasonably practicable after the direction is made (the decrofting taking effect only on receipt of the notification);
  - (c) in the case of the decrofting of a croft pursuant to a direction under section 24(3) of that Act resulting from an application under section 25(4) of that Act, as soon as reasonably practicable after the Commission are notified under section 25(4ZB)(a) of that Act of an acquisition.

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#### **Textual Amendments**

- F4** Word in s. 10(7) inserted (retrospective to 1.10.2011) by [Crofting \(Amendment\) \(Scotland\) Act 2013 \(asp 10\)](#), ss. 3, 6, [Sch. para. 2\(4\)\(a\)](#)
- F5** Words in s. 10(8)(b) inserted (retrospective to 1.10.2011) by [Crofting \(Amendment\) \(Scotland\) Act 2013 \(asp 10\)](#), ss. 3, 6, [Sch. para. 2\(4\)\(b\)](#)
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#### **Commencement Information**

- I10** [S. 10\(1\)\(2\)](#) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), [Sch. 1 Pt. 2](#) (with [Sch. 2 para. 1\(f\)](#))

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