

SCHEDULE 2

Article 4

Transitory, transitional and savings provisions

Period of voluntary registration

1. From 30th November 2012 until 30th November 2013—
 - (a) section 4(11) of the 2010 Act is to be read as if—
 - (i) paragraph (a)(ii) of the definition of “croft” was omitted; and
 - (ii) the definition of “new croft” was omitted;
 - (b) section 7(3) of the 2010 Act is to be read as if—
 - (i) the words in parenthesis in paragraph (a) were omitted; and
 - (ii) the words “to section 3AA of the 1993 Act and” were omitted;
 - (c) section 8(5) of the 2010 Act is to be read as if the words in parenthesis were omitted;
 - (d) section 9(2)(b) of the 2010 Act is to be read as if the words in parenthesis were omitted;
 - (e) section 9(4) of the 2010 Act is to be read as if the words in parenthesis were omitted;
 - (f) section 10(1) of the 2010 Act is to be read as if the words in parenthesis were omitted;
 - (g) section 12(8) of the 2010 Act is to be read as if the words in parenthesis were omitted;
 - (h) section 17(1) of the 2010 Act is to be read as if the words in the first parenthesis were omitted;
 - (i) section 24(1)(b) of the 2010 Act is to be read as if the words “, in any other case,” were omitted;
 - (j) section 26(4) of the 2010 Act is to be read as if the words “to section 51B of the 1993 Act and” were omitted;
 - (k) section 4(5) of the 1993 Act⁽¹⁾ is to be read as if the words “or a first registered croft” were omitted;
 - (l) section 4(6) of the 1993 Act is to be read as if the words in parenthesis were omitted;
 - (m) section 4A(2B) of the 1993 Act⁽²⁾ is to be read as if the words in parenthesis were omitted;
 - (n) section 8(6) of the 1993 Act⁽³⁾ is to be read as if the words “or a first registered croft” were omitted;
 - (o) section 8(6A) of the 1993 Act⁽⁴⁾ is to be read as if the words in parenthesis were omitted;
 - (p) section 9(3) of the 1993 Act⁽⁵⁾ is to be read as if the words in parenthesis were omitted;
 - (q) section 19D(4) of the 1993 Act⁽⁶⁾ is to be read as if the words in parenthesis were omitted;
 - (r) section 20(1ZB) of the 1993 Act⁽⁷⁾ is to be read as if the words in parenthesis were omitted;
 - (s) section 23(3ZB) of the 1993 Act⁽⁸⁾ is to be read as if the words in the first parenthesis were omitted;

(1) Section 4 was substituted by section 46 of the 2010 Act.

(2) Section 4A(2B) was inserted by paragraph 3(5)(a) of schedule 4 to the 2010 Act.

(3) Section 8(6) was amended by section 12(d) of the Crofting Reform etc. Act 2007 (asp 7) and by paragraph 3(8)(c) of schedule 4 to the 2010 Act.

(4) Section 8(6A) was inserted by paragraph 3(8)(d) of schedule 4 to the 2010 Act.

(5) Section 9(3) was substituted by paragraph 3(9)(c) of schedule 4 to the 2010 Act.

(6) Section 19D(4) was inserted by section 34 of the 2010 Act.

(7) Section 20(1ZB) was inserted by paragraph 3(11)(c) of schedule 4 to the 2010 Act.

(8) Section 23(3ZB) was inserted by paragraph 3(14)(a) of schedule 4 to the 2010 Act.

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- (t) section 24(3C) of the 1993 Act(9) is to be read as if the words in the first parenthesis were omitted;
- (u) section 25(4) of the 1993 Act(10) is to be read as if the words “subsections (4ZB) and (4ZD)” were “subsection (4ZD)”;
- (v) section 29A(3) of the 1993 Act(11) is to be read as if the words in the first parenthesis were omitted;
- (w) section 52(5B) of the 1993 Act(12) is to be read as if the words in parenthesis were omitted; and
- (x) section 52(12A) of the 1993 Act(13) is to be read as if the words in parenthesis were omitted.

New crofts

2. The coming into force of sections 4(1) (for all remaining purposes) and 23 of the 2010 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to a new croft where the application to the Commission to exercise their power under section 3A(1) or, as the case may be, (2), of the 1993 Act to constitute land, or as the case may be, a holding, as a croft, was made before that date(14).

New common grazings

3. The coming into force of sections 24(1)(a) and 27 of the 2010 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to a new common grazing where the application to the Commission to exercise their power under section 51A(1) of the 1993 Act to constitute the land as a common grazing was made before that date(15).

Duties of certain owner-occupiers of crofts

4.—(1) The coming into force of section 34 of the 2010 Act for the purpose of inserting section 19D(3) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered owner-occupied croft where the application under section 19D(2) of the 1993 Act for consent to divide the croft was made before that date(16).

(2) The coming into force of section 34 of the 2010 Act for the purpose of inserting section 19D(5) into the 1993 Act on 30th November 2012 by virtue of article 3(1)(b) has no effect in relation to a new croft created by the division of an unregistered owner-occupier croft where the application under section 19D(2) of the 1993 Act for consent to divide the croft is made before 30th November 2013.

Enforcement of duties of crofters and certain owner-occupiers

5.—(1) Where an unregistered croft or owner-occupied croft is divided by the Commission before 30th November 2013, section 26G(3)(a) of the 1993 Act is to be read as if the reference to the date of registration in consequence of an application under section 4 of the 2010 Act were a reference to

(9) Section 24(3C) was inserted by paragraph 3(15)(c) of schedule 4 to the 2010 Act.

(10) Section 25(4) was amended by paragraph 3(16)(a) of schedule 4 to the 2010 Act.

(11) Section 29A(3) was inserted by section 39 of the 2010 Act.

(12) Section 52(5B) was inserted by paragraph 3(31)(c) of schedule 4 to the 2010 Act.

(13) Section 52(12A) was inserted by paragraph 3(31)(g) of schedule 4 to the 2010 Act.

(14) Section 3A was inserted by section 6 of the Crofting Reform etc. Act 2007 and amended by section 23 of the 2010 Act.

(15) Section 51A was inserted by section 27 of the Crofting Reform etc. Act 2007 and amended by section 27 of the 2010 Act.

(16) Section 19D was inserted by section 34 of the 2010 Act.

the date on which the Commission enters in the Register of Crofts in accordance with section 41 of the 1993 Act any information to be entered in that register as regards the division⁽¹⁷⁾.

(2) The coming into force of section 37 of the 2010 Act for the purpose of inserting section 26G(4) into the 1993 Act on 30th November 2012 by virtue of article 3(1)(b) has no effect in relation to a new croft created by the division of an unregistered croft or owner-occupied croft by the Commission before 30th November 2013.

(3) The coming into force of section 37 of the 2010 Act for the purpose of inserting section 26J(5) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to the letting of an unregistered owner-occupier croft in accordance with proposals submitted under section 26J(1) of the 1993 Act where the letting occurred before that date⁽¹⁸⁾.

(4) The coming into force of section 37 of the 2010 Act for the purpose of inserting section 26J(9) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to the letting of an unregistered owner-occupier croft pursuant to a decision under section 26J(8) of the 1993 Act where the letting occurred before that date.

Letting of owner-occupied crofts

6. The coming into force of section 39 of the 2010 Act for the purpose of inserting section 29A(2) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered owner-occupier croft (or any part of it) where the application under section 29A(1) of the 1993 Act for the consent of the Commission was made before that date⁽¹⁹⁾.

Enlargement of crofts

7. The coming into force of section 46 of the 2010 Act for the purpose of inserting section 4(3) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft where the application under section 4(2) of the 1993 Act for a direction enlarging the croft under section 4(4) was made before that date.

Bequests of crofts

8.—(1) Where notice of a bequest mentioned in section 10(1)(a) of the 1993 Act of an unregistered croft is given in accordance with section 10(2) or (2A) of the 1993 Act before 30th November 2013, section 10(7) of the 1993 Act is to be read as if the reference to the date of registration in relation to the application for registration of the croft by virtue of section 4(4)(e) of the 2010 Act were a reference to the date of entry by the Commission in the Register of Crofts in accordance with section 41 of the 1993 Act of any information to be entered in that register as regards the receipt of the notice of the bequest⁽²⁰⁾.

(2) Where an application for consent to divide an unregistered croft under section 9 of the 1993 Act is made in pursuance of section 10(4A) of the 1993 Act before 30th November 2013, paragraph (a) of the definition of “relevant date” in section 10(8) is to be read as if the reference to the date the Keeper receives notification of the Commission’s consent to divide the croft by virtue of section 10(7) of the 2010 Act were a reference to the date of entry by the Commission in the Register of Crofts in accordance with section 41 of the 1993 Act of any information to be entered in that register as regards the division.

⁽¹⁷⁾ Section 26G was inserted by section 37 of the 2010 Act. Section 41 was amended by section 5 of and paragraph 2(9) of schedule 1 to the Crofting Reform etc. Act 2007 and by paragraph 3(25) of schedule 4 to the 2010 Act.

⁽¹⁸⁾ Section 26J was inserted by section 37 of the 2010 Act.

⁽¹⁹⁾ section 29A was inserted by section 39 of the 2010 Act.

⁽²⁰⁾ Section 10 was amended by section 13 of the Crofting Reform etc. Act 2007 and section 29 of the 2010 Act.

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Exchange of crofts or parts of crofts

9. The coming into force of paragraph 3(5)(a) of schedule 4 to the 2010 Act for the purpose of inserting section 4A(2A) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft (or any part of such a croft) where the application under section 4A(1) of the 1993 Act for the consent of the Commission to exchange the croft (or any part of the croft) was made before that date⁽²¹⁾.

Assignment of crofts

10. The coming into force of paragraph 3(8)(a) (for all remaining purposes) of schedule 4 to the 2010 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft where the application under section 8(1) of the 1993 Act for consent to assign the croft was made before that date⁽²²⁾.

Division of crofts

11.—(1) The coming into force of paragraph 3(9)(a) of schedule 4 to the 2010 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft where the application under section 9(1) of the 1993 Act for consent to divide the croft was made before that date⁽²³⁾.

(2) The coming into force of paragraph 3(9)(c) of schedule 4 to the 2010 Act on 30th November 2012 by virtue of article 3(1)(b) has no effect in relation to an unregistered croft where the application under section 9(1) of the 1993 Act for consent to divide the croft is made before 30th November 2013.

Intestacy

12. Where notice of a transfer such as is mentioned in section 11(1) of the 1993 Act of an unregistered croft is given before 30th November 2013, section 11(1A) of the 1993 Act is to be read as if the reference to the transfer taking effect in relation to an application for registration of the giving of notice under subsection (1) by virtue of section 4 of the 2010 Act on the date of registration were a reference to the transfer taking effect on the date of the entry by the Commission in the Register of Crofts in accordance with section 41 of the 1993 Act of any information to be entered in that register as regards the transfer⁽²⁴⁾.

Resumption of croft or part of croft by landlord

13. The coming into force of paragraph 3(11)(a) of schedule 4 to the 2010 Act for the purpose of inserting section 20(1ZA) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft (or any part of such a croft) where the application under section 20(1) of the 1993 Act to resume the croft was made before that date⁽²⁵⁾.

⁽²¹⁾ Section 4A was inserted by section 9 of the Crofting Reform etc. Act 2007 and amended by paragraph 3(5) of schedule 4 to the 2010 Act.

⁽²²⁾ Section 8 was amended by section 12 of the Crofting Reform etc. Act 2007 and paragraph 3(8) of schedule 4 to the 2010 Act.

⁽²³⁾ Section 9 was substituted by section 10 of the Crofting Reform etc. Act 2007 and amended by paragraph 3(9) of schedule 4 to the 2010 Act.

⁽²⁴⁾ Section 11 was amended by section 17 of the Crofting Reform etc. Act 2007 and section 44(1) and (2) of and paragraph 3(10) of schedule 4 to the 2010 Act.

⁽²⁵⁾ Section 20 was amended by section 22(1) of the Crofting Reform etc. Act 2007 and paragraph 3(11) of schedule 4 to the 2010 Act.

Reversion of resumed land

14. The coming into force of paragraph 3(12)(a) of schedule 4 to the 2010 Act for the purpose of inserting section 21A(1A) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft (or part of such a croft) where the order under section 21A(1) of the 1993 Act for reversion was made before that date⁽²⁶⁾.

Vacant crofts

15.—(1) The coming into force of paragraph 3(14)(a) of schedule 4 to the 2010 Act for the purpose of inserting section 23(3ZA) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft (or any part of such a croft) where the application under section 23(3) of the 1993 Act for the approval of the Commission was made before that date⁽²⁷⁾.

(2) The coming into force of paragraph 3(14)(d) of schedule 4 to the 2010 Act for the purpose of inserting section 23(5ZD) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft where the letting in accordance with proposals submitted under section 23(5) of the 1993 Act occurred before that date.

(3) The coming into force of paragraph 3(14)(e) of schedule 4 to the 2010 Act for the purpose of inserting section 23(5D) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft where the letting pursuant to the determination under section 23(5C) of the 1993 Act occurred before that date.

Decrofting in case of resumption or vacancy of croft

16.—(1) The coming into force of paragraph 3(15)(b) of schedule 4 to the 2010 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft where the notice under section 24(2) of the 1993 Act requiring the making of a decrofting direction was given before that date⁽²⁸⁾.

(2) The coming into force of paragraph 3(15)(c) of schedule 4 to the 2010 Act for the purpose of inserting section 24(3B) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft where the application under section 24(3) of the 1993 Act for a decrofting direction was given before that date.

Provisions supplementary to section 24(3) of the 1993 Act

17. The coming into force of paragraph 3(16)(b) of schedule 4 to the 2010 Act for the purpose of inserting section 25(4ZA) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft where the application under section 25(4) of the 1993 Act for a decrofting direction was given before that date⁽²⁹⁾.

⁽²⁶⁾ Section 21A was inserted by section 22(3) of the Crofting Reform etc. Act 2007 and amended by paragraph 3(12) of schedule 4 to the 2010 Act.

⁽²⁷⁾ Section 23 was amended by section 24 of the Crofting Reform etc. Act 2007 and section 44(3) to (6) of and paragraph 3(14) of schedule 4 to the 2010 Act.

⁽²⁸⁾ Section 24 was amended by section 23(a) of and paragraph 2(6) of schedule 1 to the Crofting Reform etc. Act 2007 and section 45 and paragraph 3(15) of schedule 4 to the 2010 Act.

⁽²⁹⁾ Section 25 was amended by section 23(b) of and paragraph 2(7) of schedule 1 to the Crofting Reform etc. Act 2007 and section 43 of and paragraph 3(16) of schedule 4 to the 2010 Act.

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Putting into effect of reorganisation schemes

18. The coming into force of paragraph 3(23)(c) of schedule 4 to the 2010 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to a reorganisation scheme in relation to which the Commission has appointed a date under section 39(2) of the 1993 Act before that date(**30**).

Apportionment of common grazings

19. The coming into force of paragraph 3(31)(c) of schedule 4 to the 2010 Act for the purpose of inserting section 52(5A) into the 1993 Act on 30th November 2013 by virtue of article 3(1)(c) has no effect in relation to an unregistered croft where the application under section 52(4) of the 1993 Act for the apportionment of a part of a common grazing was made before that date(**31**).

(30) Section 39 was amended by section 20(4) of the Crofting Reform etc. Act 2007 and paragraph 3(23) of schedule 4 to the 2010 Act.

(31) Section 52 was amended by sections 28 and 29 of and paragraph 2(17) to schedule 1 to the Crofting Reform etc. Act 2007 and paragraph 3(31) of schedule 4 to the 2010 Act.