



Crofters (Scotland) Act 1993

1993 CHAPTER 44

Provisions relating to Land Court

[^{F1}52A Appeal to Land Court: general

- (1) An appeal shall lie to the Land Court, on one or more of the grounds mentioned in subsection (3) below, against—
 - (a) any decision, determination or direction of; or
 - (b) the imposition of a condition by,the Commission on an application made to them under this Act.
- (2) The appeal—
 - (a) is to be made^{F2}..., at the instance of the applicant or of any person with an interest in the application; and
 - (b) must be brought within 42 days after the Commission dispose of the application.
- (3) The grounds are that the Commission, in reaching their decision or as the case may be in determining as they did, in making their direction or in imposing the condition in question—
 - (a) erred on a point of law;
 - (b) made a finding as to a fact material to the decision, determination, direction or imposition but did not have sufficient evidence on which to base that finding;
 - (c) acted contrary to natural justice,
 - (d) took into account certain irrelevant or immaterial considerations;
 - (e) failed to take into account certain relevant or material considerations;
 - (f) exercised their discretion in an unreasonable manner.
- (4) In an appeal under subsection (1) above the Court may—
 - (a) confirm the decision, determination, direction or imposition;
 - (b) direct the Commission to come to a different decision, make a different determination or direction or impose a different (or no) condition; or
 - (c) remit the case to the Commission without so directing them.

Status: Point in time view as at 30/11/2012.

Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Provisions relating to Land Court. (See end of Document for details)

[The Court may, if it considers it appropriate in consequence of any decision on an ^{F3}(4A) appeal under subsection (1), order the Keeper to rectify the Crofting Register.]

[The Commission may be a party to any appeal to the Land Court under this Act or ^{F4}(4B) in any proceedings on a question coming before that Court on an application under section 53(1) of this Act.]

^{F5}(5)

(6) Subsections (1), (2) and (4) above do not apply where an appeal lies under section ^{F6}... 25(8) or 38A of this Act.

^{F7}(7)]

Textual Amendments

- F1** S. 52A inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 33(1)**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F2** Words in s. 52A(2)(a) repealed (1.2.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 50(1)(e)**, 57(2) (with s. 57(4)); S.S.I. 2010/437, art. 3, sch. (with arts. 4, 5(3))
- F3** S. 52A(4A) inserted (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(32)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2
- F4** S. 52A(4B) inserted (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 50(2)**, 57(2) (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F5** S. 52A(5) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(32)(b)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F6** Word in s. 52A(6) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(32)(c)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F7** S. 52A(7) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(32)(d)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

Modifications etc. (not altering text)

- C1** S. 52A applied (with modifications) (30.10.2012 for specified purposes, 30.11.2012 in so far as not already in force) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 32(10)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(a)(b)(2), sch. 1 Pts. 1, 2
- C2** S. 52A applied (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 7(6)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2
- C3** S. 52A applied (30.11.2012) by Crofting Reform (Scotland) Act 2010 (asp 14), **ss. 26(7)**, 57(2) (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

53 Jurisdictional provisions.

(1) Without prejudice to any jurisdiction exercisable by it under any enactment, the Land Court shall have power to determine, either on the application of any person having an interest or on a reference made to it by the Commission, any question of fact or law arising under this Act including, without prejudice to the said generality—

- (a) the question whether any holding is a croft;
- (b) the question who is the tenant of any croft;
- (c) any question as to the boundaries of a croft or of any pasture or grazing land a right in which forms part of a croft;
- (d) the question whether any land is or forms part of a common pasture or grazing to which this Act applies:

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[^{F8}(e) the question—

- (i) whether any of the grounds mentioned in subsection (2A) of section 50 of this Act as grounds for refusing consent applied for under subsection (1) of that section is made out; or
- (ii) whether conditions subject to which any such consent is given are reasonable]

Provided that the Land Court shall not have power under this subsection to determine—

(i) any question of a kind reserved by this Act to a court other than the Land Court;

[^{F9}(ia) any question that may be raised under section 14(1) of the 2010 Act (including a question that could have been raised under that section had an application been made before the end of the period mentioned in section 12(5) of that Act);]

[^{F10}(ii) (other than on a reference made to it by the Commission) any question arising by virtue of an application to the Commission under this Act; or

(iii) any other question (other than a question of law), if it is a question decided by the Scottish Ministers or the Commission in the discharge of any of their respective functions under this Act.]

(2) The Land Court shall cause intimation to be made to the Commission of its determination on any question coming before it under [^{F11}subsection (1) above] .

[^{F12}(3) The Court may, if it considers it appropriate in consequence of any determination under subsection (1), order the Keeper to rectify the Crofting Register.]

Textual Amendments

- F8** S. 53(1)(e) added (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 33(2)(a)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F9** Words in s. 53(1) inserted (30.11.2012) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), s. 57(2), **sch. 4 para. 3(33)(a)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2
- F10** Words in s. 53 substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 33(2)(b)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F11** Words in s. 53(2) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 33(2)(c)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F12** S. 53(3) inserted (30.11.2012) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), s. 57(2), **sch. 4 para. 3(33)(b)** (with s. 57(4)); S.S.I. 2012/288, art. 3(1)(b)(2), sch. 1 Pt. 2

[^{F13}53A Extent of boundaries

Where an application is made to the Land Court to determine a question under section 53(1)(c) of this Act and the evidence available to the Court is insufficient to enable any boundary to be clearly determined, the Court shall declare the boundary to be that which in all the circumstances it considers appropriate.]

Textual Amendments

- F13** S. 53A inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 18, 43(3)** (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.

Status: Point in time view as at 30/11/2012.

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[^{F14}53B Access to croft

- (1) Where a crofter considers that—
 - (a) he requires access from a public road to his croft; and
 - (b) it would be reasonable for such access to be taken by a route lying wholly over land owned by his landlord,
 the crofter may make application to the Land Court for an order under subsection (2) below.
- (2) On an application under subsection (1) above, the Land Court shall make such order as it considers appropriate in all the circumstances, and the order may in particular make provision—
 - (a) specifying an access route from the public road to the croft lying wholly over land owned by the landlord;
 - (b) as to the arrangements under which the crofter may carry out works to construct or improve a road over the access route;
 - (c) as to the conditions subject to which access may be exercised, including conditions as to what types of vehicle may be taken along the access route;
 - (d) requiring the crofter to indemnify the landlord in respect of any claim for compensation made against the landlord under paragraph 11 of Schedule 2 to this Act in consequence of works such as are described in paragraph (b) above;
 - (e) requiring the crofter to make a payment to the landlord in respect of expenses incurred by the landlord in connection with matters which are the subject of the application.
- (3) Any order under subsection (2) above shall have effect as if the matters for which the order makes provision had been the subject of an agreement between the crofter and the landlord.
- (4) The right of a crofter to make application to the Land Court under subsection (1) above shall be without prejudice to any other right which that crofter may have in connection with access to his croft.]

Textual Amendments

F14 S. 53B inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 19, 43(3)** (with **ss. 40, 43(2)**); [S.S.I. 2007/269](#), **art. 2, sch.**

^{F15}54 Crofters Holdings Book.

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Textual Amendments

F15 S. 54 repealed (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **s. 43(3), sch. 2** (with **ss. 40, 43(2)**); [S.S.I. 2007/269](#), **art. 2, sch.**

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