



# Crofters (Scotland) Act 1993

## 1993 CHAPTER 44

### *The conditions of tenure*

#### 5 **The statutory conditions.** **S**

- (1) Every tenancy of a croft shall be subject to the conditions set out in Schedule 2 to this Act (in this Act referred to as “the statutory conditions”).

<sup>F1</sup>(1A) .....

- (2) A crofter shall not be subject to be removed from the croft of which he is tenant except—

- (a) where one year’s rent of the croft is unpaid;
- (b) in consequence of the breach of one or more of the statutory conditions, other than the condition as to payment of rent; or
- (c) in pursuance of any enactment, including any enactment contained in this Act.

<sup>F2</sup>(2A) .....

<sup>F3</sup>(2B) .....

- <sup>F4</sup>(3) Any contract or agreement made by a crofter by virtue of which he is deprived of any right conferred on him by—

- (a) a provision of this Act not mentioned in paragraph (b) below, shall to that extent be void unless the contract or agreement is approved by the Land Court;
- (b) any of sections 8, 12 to 19, 21 and 37 of this Act, may be intimated to the Commission by a party to the agreement (the intimation being in such form as the Commission may specify and there being provided to the Commission, along with the intimation, a copy of the contract or agreement).

- (4) On giving approval under subsection (3)(a) above, the Land Court shall intimate to the Commission that it has done so and provide them with a copy of the contract or agreement.

- (5) On receiving a copy, provided under subsection (3)(b) or (4) above, of a contract or agreement the Commission shall enter the copy in the Register of Crofts.

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: The conditions of tenure. (See end of Document for details)*

- (6) Where a copy is so entered then, subject to the terms of the contract or agreement, the deprivation in question is binding on the successors to the crofter's interest.

<sup>F5</sup>(7) .....

<sup>F5</sup>(8) .....

<sup>F5</sup>(9) .....

<sup>F5</sup>(10)] .....

#### Textual Amendments

- F1** S. 5(1A) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(6)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F2** S. 5(2A) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(6)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F3** S. 5(2B) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(6)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)
- F4** S. 5(3)-(10) substituted for s. 5(3) (25.6.2007 for specified purposes, 28.1.2008 in force in so far as not already in force) by Crofting Reform etc. Act 2007 (asp 7), **ss. 7(1)(c), 43(3)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.; S.S.I. 2007/568, art. 2
- F5** S. 5(7)-(10) repealed (1.10.2011) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **sch. 4 para. 3(6)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

#### [<sup>F6</sup>5A Complaint as respects breach of the statutory conditions **S**

- (1) Without prejudice to any right which the landlord has to initiate proceedings in relation to a breach of the statutory conditions as respects a croft, the landlord or any member of the crofting community in the locality of the croft may complain to the Commission that such a breach (other than a breach of the condition as to payment of rent) has occurred.
- (2) Provided—
- (a) that no proceedings—
    - (i) such as are mentioned in subsection (1) above; or
    - (ii) under [<sup>F7</sup>section 26C] of this Act,
 have been initiated; and
  - (b) that the period allowed the crofter by virtue of subsection (4) below has elapsed,
- the Commission may make an application to the Land Court in relation to the breach; but this subsection is subject to subsection (3) below.
- (3) Except where the complaint was by the landlord, the Commission shall give him written notice of their intention to make the application; and if within 14 days after receipt of that notice he gives them intimation that he objects, being intimation of the description given in subsection (7) below, they shall not proceed with the application.
- (4) Before making the application, the Commission shall give written notice to the crofter of the breach complained of and give him the opportunity to remedy it within such reasonable period as they shall specify in the notice.

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- (5) Where, on an application under subsection (2) above, the Land Court is satisfied that the breach complained of has occurred, it may—
- (a) order that the breach be remedied and specify a time within which that must occur; and
  - (b) make such order regarding the payment of compensation by the crofter to the landlord as it thinks fit.
- (6) Where an order under subsection (5)(a) above is not complied with, the Commission may apply to the Land Court for an order—
- (a) terminating the tenancy;
  - (b) declaring the croft to be vacant; and
  - (c) for the removal of the tenant from the croft.
- (7) The description is that the intimation is given in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape).
- (8) For the purposes of subsection (7) above (and without prejudice to the generality of that subsection), an intimation is to be treated as given in writing where it is—
- (a) transmitted by electronic means;
  - (b) received in legible form; and
  - (c) capable of being used for subsequent reference.]

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**Textual Amendments**

- F6** Ss. 5A, 5B inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 8**, 43(3) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F7** Words in s. 5A(2)(a)(ii) substituted (1.10.2011) by [Crofting Reform \(Scotland\) Act 2010 \(asp 14\)](#), s. 57(2), **sch. 4 para. 3(7)** (with s. 57(4)); S.S.I. 2011/334, art. 3, sch. Pt. 1 (with art. 4)

**Changes to legislation:**

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