

SCOTTISH STATUTORY INSTRUMENTS

2010 No. 437 (C. 31)

CROFTERS, COTTARS AND SMALL LANDHOLDERS

The Crofting Reform (Scotland) Act 2010 (Commencement, Saving and Transitory Provisions) Order 2010

Made

7th December 2010

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 53(2) and 57(2) and (3) of the Crofting Reform (Scotland) Act 2010(1).

Citation and interpretation

1. This Order may be cited as the Crofting Reform (Scotland) Act 2010 (Commencement, Saving and Transitory Provisions) Order 2010.

2. In this Order—

“the Act” means the Crofting Reform (Scotland) Act 2010;

“the 1993 Act” means the Crofters (Scotland) Act 1993(2).

Appointed days

3.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the Act specified in column 1 of the Schedule to this Order (the subject matter of which is specified in column 2 of the Schedule) is specified in column 3 of the Schedule.

(2) Where a purpose is specified in column 4 of the Schedule, a provision specified in column 1 comes into force in accordance with paragraph (1) only for that purpose.

Transitory provision

4.—(1) Any reference to “the Commission” or the “Crofting Commission” in any provision of the Act commenced by this Order is to be read as a reference to the Crofters Commission.

(2) This article has effect until the day on which section 1(1) of the Act (renaming the Crofters Commission) comes into force.

Saving provisions

5.—(1) The commencement of section 40 of the Act (limitation on crofter’s ability to nominate disponee) has no effect as regards any application to the Land Court under section 12(1) of the 1993 Act made prior to 1st July 2011.

(2) The commencement of section 41 of the Act (extension of period during which sum is payable on disposal of croft land) has no effect as regards croft land acquired pursuant to an order of the Land Court under section 13(1) of the 1993 Act made prior to 1st July 2011.

(3) The repeal of the words “by way of stated case” in sections 25(8), 38A(1) and 52A(2)(a) of the 1993 Act by section 50(1) of the Act does not affect any appeal to the Land Court made prior to 1st February 2011.

R CUNNINGHAM

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
7th December 2010

Article 3

SCHEDULE

<i>Column 1</i> <i>(provisions of the Act)</i>	<i>Column 2</i> <i>(subject matter)</i>	<i>Column 3</i> <i>(appointed day)</i>	<i>Column 4</i> <i>(purpose)</i>
Section 34 insofar as it inserts section 19B into the 1993 Act	Meaning of “owner-occupier crofter” etc.	22nd December 2010	Only for the purpose of enabling the Scottish Ministers to make a scheme or regulations under section 42, 46 or 46A of the 1993 Act
Section 39	Letting of owner-occupied crofts	22nd December 2010	Only for the purpose of enabling the Scottish Ministers to make a scheme or regulations under section 42, 46 or 46A of the 1993 Act
Section 40	Limitation on crofter’s ability to nominate disponee	1st July 2011	
Section 41	Extension of period during which sum is payable on disposal of croft land	1st July 2011	
Section 50(1)	Removes reference to certain appeals to the Land Court being made by way of stated case	1st February 2011	
Section 51	Duty of the Scottish Ministers to lay report before the Scottish Parliament	22nd December 2010	
Section 55	Minor and consequential amendments and repeals	22nd December 2010	Only for the purpose of bringing into force the provisions of schedule 4 specified in column 1 of this Schedule below
Section 56	Interpretation	22nd December 2010	
Schedule 4, paragraphs 1; 3(4); 3(26) to (28);	Amendments to enactments	22nd December	

3(36)(a) and (i)		2010	
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force various provisions of the Crofting Reform (Scotland) Act 2010 (“the Act”).

The Schedule to the Order appoints 22nd December 2010 for the coming into force of the following provisions of the Act (in some cases for a limited purpose):

- Section 34 of the Act insofar as it inserts section 19B into the Crofters (Scotland) Act 1993 (“the 1993 Act”), which provides a definition of “owner-occupier crofter”, but only for the purpose of enabling the Scottish Ministers to make a scheme or regulations under section 42, 46 or 46A of the 1993 Act;
- Section 39 of the Act, which relates to the letting of owner-occupied crofts, but only for the purpose of enabling the Scottish Ministers to make a scheme or regulations under section 42, 46 or 46A of the 1993 Act;
- Section 51 of the Act which requires the Scottish Ministers to lay before the Scottish Parliament a report relating to crofting once every four years, with the first report being due within 6 months of the passing of the Bill for the Act on 1st July 2010;
- Section 55, which makes minor and consequential amendments and repeals, but only for the purpose of commencing the provisions of schedule 4 to the Act which are referred to below;
- Paragraph 1 of schedule 4 to the Act which extends the Crofting Commission’s (presently named the Crofters Commission) regulatory powers for small landholdings in the crofting counties to include any areas designated by order as new crofting areas;
- Paragraph 3(4) of schedule 4 to the Act which repeals section 3A(12)(a) of the 1993 Act thus removing the condition that a holding must not be comprised within a larger agricultural unit in order to be considered a croft;
- Paragraph 3(26) to (28) of schedule 4 to the Act which amends the powers of the Scottish Ministers to make schemes to provide financial assistance, to pay grants and to provide loans to owner-occupier crofters and their tenants;
- Paragraph 3(36)(a) and (i) of schedule 4 to the Act which inserts definitions of the Act, “owner-occupied croft”, “owner-occupier’s croft” and “owner-occupier crofter” into the 1993 Act;
- Section 56 which defines various terms for the purposes of the Act.

The Schedule to the Order appoints 1st February 2011 for the coming into force of section 50(1) of the Act which removes the requirement for various appeals to the Scottish Land Court under the 1993 Act to be made by stated case. Article 5(3) of the Order provides that the repeal of the words “by way of stated case” in sections 25(8), 38A(1) and 52A(2)(a) of the 1993 Act, which is effected by the commencement of section 50(1) of the Act, does not affect any appeal to the Scottish Land Court made prior to 1st February 2011.

The Schedule to the Order also appoints 1st July 2011 for the coming into force of sections 40 and 41 of the Act. Section 40, which inserts new subsection (1A) of section 13 of the 1993 Act, provides that any nominee of the crofter exercising the right to buy the croft must be a family member. Article 5(1) of the Order provides that the commencement of section 40 does not affect any application which has been made to the Scottish Land Court under section 12(1) of the 1993 Act prior to 1st July 2011. Section 41 of the Act amends subsection (3) of section 14 of the 1993 Act to extend the period from 5 years to 10 years during which a crofter or nominee who has acquired croft land under section 13(1) of the 1993 Act, or a member of that crofter's family who has obtained title to that land, must pay the landlord a sum upon disposal of the land amounting to one half of the difference between the market value of the land and the consideration paid. Article 5(2) of the Order provides that the commencement of section 41 does not affect croft land acquired pursuant to an order of the Scottish Land Court under section 13(1) of the 1993 Act which was made prior to 1st July 2011.

Article 4 of the Order makes a transitory provision so that any references to "the Commission" or "the Crofting Commission" in the provisions of the Act commenced by this Order are to be read as references to the Crofters Commission until the Crofters Commission is renamed the Crofting Commission by virtue of the commencement of section 1(1) of the Act.