

Applications to decroft by owner-occupier crofters

25 Provisions supplementary to sections 24(A)

(1) The Commission shall give a direction under section 24(B) of this Act that a croft shall cease to be a croft if –

(a) subject to subsection (2) below, that they are satisfied that the applicant has applied for the direction in order that the croft may be used for or in connection with some reasonable purpose (within the meaning of section 20 of this Act) having relation to the good of the croft or of the estate or to the public interest or to the interests of the crofting community in the locality of the croft and the extent of the land to which the application relates is not excessive in relation to that purpose; or

(b)¹ in a case where-

(i) the application is made in respect of a part of a croft, which consists only of the site of the dwelling-house on or pertaining to the croft, and

(ii) they have not previously given a direction under section 24B(1) to the applicant in relation to such a site on or pertaining to that croft,

they are satisfied that the extent of garden ground included in that part is appropriate for the reasonable enjoyment of the dwelling-house as a residence”.

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(1A) In determining whether they are satisfied as mentioned in subsection (1)(a) above (and, in particular, whether the reasonable purpose mentioned there relates to the public interest), the Commission-

(a) may take into account the effect that purpose (whether alone or conjunction with other considerations) would have on the matters mentioned in subsection (1B) below; and

(b) where the purpose is, or is connected with, the development of the croft in respect of which planning permission subsists, may take into account the effect such development would have on the croft, the estate and the crofting community in the locality of the croft,

and must give the direction, or refuse to grant the application for it, accordingly.

¹ Words substituted by Section 1(2) 24C(2) of the 2013 Act.

² Subsection (1)(c) is disapplied by section 1(2) 24C(4)(a) of the 2013 Act.

- (1B) The matters mentioned in subsection (1A)(a) above are-
- (a) the sustainability of-
 - (i) crofting in the locality of the croft or such area in which crofting is carried on as appears to the Commission to be relevant;
 - (ii) the crofting community in that locality or the communities in such an area;
 - (iii) the landscape of that locality or such an areas;
 - (iv) the environment of that locality or such an area;
 - (b) the social and cultural benefits associated with crofting.
- (1C) In subsection (1A) above-
- “development” has the meaning given by section 26 of the Town and Country Planning (Scotland) Act 1997 (c.8);
- “planning permission” is to be construed in accordance with Part 3 of that Act;
- “effect” includes both a positive and negative effect.
- (2) Without prejudice to subsection (1)(b)³ above, the Commission, in determining whether or not to give such a direction, shall have regard to the general interest of the crofting community in the district in which the croft situated and in particular to the demand, if any, for a tenancy of the croft from persons who might reasonably be expected to obtain that tenancy if the croft were offered for letting on the open market on the date when they are considering the application.
- (3) Where the Commission give such a direction on being satisfied as mentioned in subsection (1)(a) above, they may in the direction impose such conditions (which may include provision as to timescales) as appear to them requisite for securing that the land to which the direction relates is used for the proposed use; and if at any time they are satisfied that there has been a breach of any such condition, they may make a further direction that the direction under section 24B(1) is revoked.⁴
- (3A) Conditions imposed by virtue of subsection (3) above may include a condition that the use be initiated by a time specified in the condition.
- (3B) The Commission may from time to time modify any conditions so imposed.

³ The words “or (c)” are disapplied by section 1(2) 24C(4)(b) of the 2013 Act.

⁴ Words substituted by section 1(2) 24C(3) of the 2013 Act.

- (3C) No such further direction as is mentioned in subsection (3) above shall be made if --
- (a) more than 20 years have elapsed since the direction under section 24(B) of this Act;
 - (b) the land, or any part of it, has, since the direction under that section, been conveyed to a person other than the former crofter or a member of the former crofter's family; or
 - (c) a debt is for the time being secured by way of a standard security over, or over any real right in, the land or any part of it.

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- (5) A direction under the said section 24(B) may be given taking account of such modification of the application in relation to which the direction is given as the Commission consider appropriate.
- (6) The Commission shall advertise all applications under the said section 24(A)⁸ above (except an application made in respect of a part of a croft consisting only of the site of the dwelling-house on or pertaining to the croft⁹ in one or more newspapers circulating in the district in which the croft to which the application relates is situated, and before disposing of such an application shall, if requested by the applicant, afford a hearing to the applicant and to such other person as they think fit.
- (7) The Commission shall give both --
- (a) notice in writing to the applicant; and
 - (b) public notification,

of their direction on an application made to them under the said section 24(A)¹⁰ above, specifying the nature of and the reasons for the direction and, as the case may be, for any conditions imposed in the direction.

⁵ Subsection (4) is disapplied by section 1(2) 24C(4)(c) of the 2013 Act.

⁶ Subsections (4ZA) to (4ZD) are disapplied by section 1(2) 24C(4)(d) of the 2013 Act.

⁷ Subsection (4A) is disapplied by section 1(2) 24C(4)(e) of the 2013 Act.

⁸ The words "or subsection (4)" are disapplied by section 1(2) 24C(4)(f)(i) of the 2013 Act.

⁹ The words "or only of land the conveyance in feu of which was granted under section 17 or 18 of the 1955 Act." are disapplied by section 1(2) 24C(f)(ii) of the 2013 Act.

¹⁰ The words "or subsection (4)" are disapplied by section 1(2) 24C(4)(g) of the 2013 Act.

- (7A) The Commission shall --
- (a) give written notification to the owner of land --
 - (i) to which a further direction under subsection (3) above relates of the making of that direction; and
 - (ii) of the modification, under subsection (3B) above, of a condition which relates to that land; and
 - (b) give public notification of those matters.
- (8) As regards --
- (a) a direction (including a condition in a direction) by the Commission on an application --
 - (i) under section 24(A) of this Act, the applicant or any member of the crofting community in the locality of the land;
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- may within 42 days after the giving of public notification of the making of the direction;
- (b) a modification under subsection (3B) above, of a condition which relates to land, the owner, or any tenant of the land or any member of the crofting community in the locality of the land, may within 42 days after the giving of public notification of the modification; or
 - (c) a further direction under subsection (3) above, the owner, or any tenant, of the land, may within 42 days after the making of that direction,
- appeal, on one or more of the grounds mentioned in section 52A(3) of this Act, to the Land Court.
- (8A) For the purposes of this section, the references in section 52A(3) to a "direction" are to be construed as including references to a modification.
- (8B) In an appeal under subsection (8) above the Court may --
- (a) confirm or revoke the direction or modification;
 - (b) direct the Commission to make a different direction or modification; or
 - (c) remit the case to the Commission without so directing them.

¹¹ Subsection (8)(a)(ii) is disapplied by section 1(2) 24C(4)(h) of the 2013 Act.

Crofters (Scotland) Act 1993, as amended by the Crofting Reform etc Act 2007 (asp 7) and as it has been and will be amended by the Crofting Reform (Scotland) Act 2010 (asp 14) and the Crofting (Amendment) (Scotland) Act 2013

- (9) The Commission shall give effect to the determination of the Land Court on an appeal under subsection (8) above.