

CROFTING AND SCOTTISH LAND COURT BILL
AMENDMENTS TO BE MOVED AT STAGE 2

Section 1, page 2, line 7

after <must>, insert <by themselves or with
their family, with or without hired labour>

Effect

This amendment further amends the new section 5C(2) of the Crofters (Scotland) Act 1993. Proposed new section 5C(2) would substitute new statutory duties for crofters. This amendment would allow the crofter to fulfil their duties as a crofter under new section 5C(2) with the assistance of family or hired labour.

Reason

The current law lacks certainty around the involvement of other family members or hired labour following the removal of the explicit wording in this regard from Schedule 2 of the Crofters (Scotland) Act 1993. This amendment would provide this certainty by inserting this language into schedule 2.

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Section 9, page 10, line 37

at end insert

<(d) After subsection 4 insert—

(5) The condition in subsection 4 shall not be met where the lease has subsequently been renounced or terminated by operation of law).”, >

Effect

This amendment would insert a new subsection 5 of section 19B of the 1993 Act in relation to the conditions which must be satisfied for a person to be considered an “owner-occupier crofter”.

Reason

It is clear that under the current law a number of individuals have unintentionally, in some cases in good faith, fallen into the circumstances of being a landlord of a vacant croft rather than an owner occupier crofter. This amendment would clarify the application of the conditions in section 19B in situations where a croft has been let but where the lease has subsequently been renounced or otherwise terminated.

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Section 9, page 11, line 39

after subsection 6 insert—

< (7) For the purposes of section 19B, an
“owner-occupier” excludes non-natural
persons.”.>

Effect

This amendment inserts a new subsection within the proposed section 19BA of the Crofters (Scotland) Act 1993 concerning the definition of an owner-occupier in section 19B of the 1993 Act.

Reason

This amendment explicitly excludes non-natural persons from qualifying as owner-occupiers of crofts which supports the Scottish Government’s policy intention behind section 10 of the Bill and removes any ambiguity from the legislation.

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Section 9, page 11, line 39

At end insert

< (7) Where an owner has submitted an application under subsection 1, they are required to be-

(i) ordinarily resident on, or within 32 kilometres of, the croft;

(ii) cultivating or putting their croft to environmental or such other purposeful use as is consented to under section 5C(4).

Effect

This amendment inserts a new subsection within the proposed section 19BA of the Crofters (Scotland) 1993 Act requiring applicants for owner-occupier status to be in compliance with statutory crofting duties, including the new environmental use provisions proposed by the Bill.

Reason

This amendment provides that where owners are seeking to be recognised as owner-occupiers of a registered croft which is vacant that they are compliant with existing statutory crofting duties. This would provide a further safeguard against landlords seeking to take croft land back in hand.

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Section 28, page 33, line 17

At end insert <(7) Where a document is served as mentioned in subsection (1)(c) to an agent noted on the Register of Crofts it is to be taken that this is deemed to have been served on the landowner.">

Effect

This amendment inserts a new subsection into the proposed new section 55 of the Crofters (Scotland) Act 1993 concerning the service of notices.

Reason

The bill as introduced would allow service on a landowner by putting a notice on a conspicuous object on the land. For large estates or corporate landlords, this may be impracticable. This amendment clarifies that where a document is served to an agent noted on the Register of Crofts, it is presumed as having been served to the landowner.

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Section 33, page 37, line 2

At end insert

< (c) after sub-paragraph (6) insert

(7) Where the chair of the Commission or of a committee is unexpectedly absent and has been unable to exercise their power to delegate under subsection (3), the Scottish Ministers must delegate to the Commission the duty to elect a member to chair the Commission or committee on an interim basis from amongst the existing membership.” >

Effect

This amendment inserts a new sub-paragraph into paragraph 13 of Schedule 1 (the Crofting Commission) of the Crofters (Scotland) Act 1993.

Reason

This amendment allows for Scottish Ministers to delegate authority to the Commission to elect a member of the Commission to act as interim chair of the Commission in situations where the chair of the Commission is unexpectedly absent. The Bill as introduced includes no provision for this situation, which may have unintended consequences in practice.

This amendment also allows for the Commission to delegate authority to a chair a meeting of a committee to a member of said committee where the chair of the committee is unexpectedly absent.

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Schedule 2, page 52, line 12

at end insert-

< (25) In schedule 2 (the Statutory
Conditions), in paragraph 4, at end insert-

“put it to any environmental or other
purposeful use.”>

Effect

This amendment amends schedule 2, paragraph 4 of the Crofters (Scotland) Act 1993 concerning purposeful and environmental use.

Reason

This amendment would provide clarity by ensuring that schedule 2 of the 1993 Act is aligned with the proposed section 5C of the 1993 Act. The law at present is inconsistent with the right for a crofter to utilise their whole croft for an environmental or purposeful use under the proposed section 5C of the Bill.