

DECROFTING OF VACANT CROFT FOLLOWING NOTICE TO THE COMMISSION BY THE LANDLORD – FOLLOWING THE COMMISSION’S TERMINATION OF THE TENANCY OF THE CROFT BY ORDER UNDER SUBSECTION 26H(1) OF THE CROFTERS (SCOTLAND) ACT 1993 (“the 1993 Act”)

(Crofters (Scotland) Act 1993 – subsection 24(2))

- (1) This subsection applies **only** where a croft has become vacant as a consequence of the Commission making an order under subsection 26(H)(1) terminating the tenancy of a crofter in breach of one or more of their statutory duties in relation to residency or land use under sections 5AA, 5B and 5C.¹
- (2) Where the croft has become vacant and has remained unlet for a period of 6 months beginning with the date on which the croft became vacant, then **the landlord** can at any time within 3 months following the expiry of the 6 month period, give notice to the Commission requiring it to direct that the croft shall cease to be a croft.
- (3) In response to the notice by the landlord, the Commission shall direct that the croft shall cease to be a croft:
 - (i) forthwith, or
 - (ii) on the refusal of an application by the Commission to the Land Court for a further period to let the croft, or
 - (iii) at the end of a further period granted to let the croft following an approval of an application by the Commission to the Land Court.²

¹ Please refer to separate Law Policy and Procedure on *Duties*.

² During the further period allowed by the Court, the Commission can initiate/progress steps to have the vacant croft let – please see separate Rules of Procedure relating to “*Letting of a vacant croft – section 23(3)*”, “*Re-letting of a Vacant Croft (proposal) – section 23(5)*”, and “*Commission letting of a vacant croft – section 23(5C)*”

(4) Where a further period is allowed by the Land Court to let the croft, the Commission shall be liable to the landlord for an amount equal to the rent which would have been payable for the croft in respect of that period.

(5) However the Commission may not make a direction in accordance with subsection 24(2) in relation to **an unregistered croft** –

(a) unless an application for first registration of the croft is submitted by the landlord before the expiry of the period of 6 months beginning with the date on which notice is given by the landlord to the Commission requiring them to direct that the croft shall cease to be a croft, and

(b) until such an application is submitted.

(6) In relation to **a registered croft** –

the direction expires at the end of the period of 3 months, beginning with the date on which the direction was made, unless an application for registration of the making of the direction is submitted by the owner to the Commission for forwarding to the Keeper of the Registers of Scotland, before the expiry of that period.

The direction takes effect on the date of registration of the direction.