STATUTORY INSTRUMENTS

1982 No. 1419 (S. 164)

CROFTERS, COTTARS AND SMALL LANDHOLDERS

The Crofters etc. Building Grants (Scotland) Regulations 1982

Made - - - -	*29th September* 1982
Laid before Parliament	*18th October* 1982
Coming into Operation	*8th November* 1982

In exercise of the powers conferred on me by section 22(4) of the Crofters (Scotland) Act 1955(**a**) and section 14(2) of the Crofters (Scotland) Act 1961(**b**), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Crofters etc. Building Grants (Scotland) Regulations 1982 and shall come into operation on 8th November 1982.

Interpretation

2.—(1) In these regulations unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them:—

"the Act of 1955" means the Crofters (Scotland) Act 1955;

"the Act of 1976" means the Crofting Reform (Scotland) Act 1976(**c**);

"building" means a dwellinghouse or other building in respect of which a grant has been applied for, or, as the case may be, in respect of which the Secretary of State has decided to make, or has made, a grant;

"cottar" has the same meaning as in section 28(4) of the Act of 1955;

"croft" has the same meaning as in section 3(1) of the Act of 1955;

"crofter" means the tenant of a croft and includes a person deemed by virtue of section 22(6) of the Act of 1955 to be a crofter for the purposes of section 22(2) of that Act;

(**a**) 1955 c. 21; section 22(4) was amended by the Crofting Reform (Scotland) Act 1976 (c. 21).
(**b**) 1961 c. 58; section 14 was amended by the Crofting Reform (Scotland) Act 1976.
(**c**) 1976 c. 21.

"grant" means such assistance by way of grant as is mentioned in section 22(2) of the Act of 1955;

"landlord" in relation to a crofter (other than a person deemed by virtue of section 22(6) of the Act of 1955 to be a crofter) has the same meaning as in section 37(1) of that Act and in relation to a cottar means the landlord of the site upon which is or is proposed to be erected, improved or rebuilt a dwellinghouse to which an application for grant or, as the case may be, a grant relates;

"owner-occupier" means—

(a) the owner of a holding to which section 31 of the Act of 1955 applies who has applied for a grant or, as the case may be, to whom the Secretary of State has decided to make or has made a grant under subsection (1) of that section; or

(b) a person who, after the passing of the Act of 1976 has applied for a grant or, as the case may be, to whom the Secretary of State has decided to make or has made a grant under section 22(2) of the Act of 1955 as read with section 12(1) of the Act of 1976 and who is—

(i) a crofter who has acquired the site of the dwellinghouse on or pertaining to his croft; or

(ii) the nominee of such a crofter, being a member of his family, to whom the site has been conveyed by the landlord of the croft; or

(iii) a member of such a crofter's family who has acquired the title to the site from that crofter or such nominee; or

(iv) a cottar who has acquired the site of the dwellinghouse on or pertaining to his subject;

"statutory successor" has the same meaning as in section 37(1) of the Act of 1955;

"the recorded conditions" in relation to a building means the conditions set out in the notice recorded in relation to that building in the Register of Sasines in accordance with regulation 4 of these regulations;

"the work" means erection, improvement or rebuilding towards which the Secretary of State has decided to make or has made a grant.

(2) In these regulations any reference to the recipient of a grant includes a reference—

(a) in the case of a crofter, to any other crofter who becomes tenant of the croft whether as a statutory successor or otherwise and to any person who becomes owner-occupier of the croft;

(b) in the case of a cottar, to any person who succeeds him as tenant of the dwellinghouse in respect of which the grant in question is made; and

(c) in the case of an owner-occupier or a person deemed by section 22(6) of the Act of 1955 to be a crofter, to the heirs and successors whomsoever of the owner-occupier or of that person as the case may be.

Application for and payment of grant

3.—(1) An application for a grant shall be made to the Secretary of State in such form as he may require.

(2) The applicant shall furnish to the Secretary of State such information as the Secretary of State may require regarding the proposals for the erection, improvement or rebuilding of the building to which the application relates.

(3) Where the applicant is a crofter or a cottar, the Secretary of State shall give notice in writing of receipt of the application to the applicant's landlord and if the landlord within 14 days after receiving the notice objects in writing to the making of the grant the Secretary of State shall, before making any decision on the application, afford to the applicant and the landlord an opportunity of making representations thereon in writing to him or to a person appointed by him to hear the representations and to report thereon to him.

(4) After considering any such application and any representations or report thereon, the Secretary of State shall give to the applicant notice in writing of his decision and if the applicant is a crofter or a cottar, shall also give notice of his decision to the applicant's landlord.

(5) Where the Secretary of State approves the application he shall, at the same time as he gives to the applicant notice of his approval, inform the applicant that the proposed work may be carried out subject to such modifications or conditions as the Secretary of State may specify.

(6) Upon completion of the work to the satisfaction of the Secretary of State, he shall make payment of the grant to the applicant.

(7) The Secretary of State may, if so requested by the applicant, make payment of the grant in instalments at such times, either during the progress of the work or after its completion, and subject to such conditions as the Secretary of State may specify.

(8) Where an instalment of a grant has been paid in accordance with paragraph (7) of this regulation and the work in respect of which the grant was to be made is not thereafter completed to the satisfaction of the Secretary of State or any condition of payment of the instalment of the grant is not complied with, the amount of the instalments may be recovered in accordance with regulation 8(1) of these regulations from the person to whom the instalment was paid as if he were the recipient of a grant and as if there had been a failure to comply with a condition such as mentioned in that paragraph.

4.—(1) Upon the payment of a grant the Secretary of State shall forthwith cause to be recorded in the Register of Sasines a notice in the form of Schedule 1 to these regulations or a form to the like effect specifying the conditions which, by virtue of regulation 5 of these regulations, apply in relation to the building.

(2) Where the recipient of a grant is a crofter or a cottar, the Secretary of State shall send a copy of the notice to the recipient's landlord.

Conditions of grant

5.—(1) A dwellinghouse in respect of which a grant has been made shall, unless the Secretary of State otherwise agrees, be occupied—

(a) where the recipient of a grant is a person deemed by virtue of section 22(6) of the Act of 1955 to be a crofter, or is a person who has, after the

application for grant but before the making of the grant, become the owner of the holding in respect of which the application was made, by that person or his family as part of the holding which he owns and occupies;

(b) in any other case, by the recipient of the grant or his family.

(2) A building other than a dwellinghouse in respect of which a grant has been made shall unless the Secretary of State otherwise agrees—

(a) where the recipient of the grant is a crofter, be used by him for the purpose of the working of the croft of which he is tenant;

(b) where the recipient of the grant is an owner-occupier, or a person to whom section 22(6) of the Act of 1955 applies, be used by him for the purpose of the working of the holding which he owns and occupies.

(3) Any building in respect of which a grant has been made shall at all times be maintained by the recipient of the grant to the satisfaction of the Secretary of State.

(4) Any such building shall be kept insured against destruction or damage by fire for such sum and with such insurance company as the Secretary of State may from time to time approve, and the receipts for the premiums in respect of the renewal of insurance shall be exhibited to the Secretary of State on demand.

(5) The recipient of a grant shall permit any person duly authorised by the Secretary of State to enter and inspect any such building at all reasonable times for the purpose of ascertaining whether any provision of these regulations applicable to the building is being complied with and any person so authorised shall, if requested, produce a document showing his authority to do so.

6.—Subject to the provisions of regulation 8 of these regulations, these regulations and the recorded conditions shall be observed in respect of the building—

(a) where a grant has been made for erection or rebuilding, for a period of 10 years;

(b) where a grant has been made for improvement, for a period of 5 years; beginning with the day on which, in the opinion of the Secretary of State, the work is completed.

7.—(1) The Secretary of State may require the recipient of a grant to provide at such times as the Secretary of State may determine a certificate that the recorded conditions are being complied with and to provide such other relevant information as the Secretary of State may require.

(2) The recipient of a grant who is a crofter and who proposes to give up his tenancy of his croft shall notify the Secretary of State in writing accordingly and shall therewith intimate to the Secretary of State the name and address of any proposed assignee.

(3) The recipient of a grant who is an owner-occupier or a person to whom section 22(6) of the Act of 1955 applies and who proposes to let, feu, sell or

otherwise dispose of the holding on which the building is situated shall notify the Secretary of State in writing accordingly and shall therewith intimate to the Secretary of State the name and address of the proposed tenant, feuar, purchaser or other disponee.

(4) A person who becomes tenant whether as a statutory successor or otherwise of a croft on which is situated a building in respect of which a grant has been made, or a cottar who becomes occupier of such a dwellinghouse, or an owner-occupier, or a person to whom section 22(6) of the Act of 1955 applies, in whom there vests any such dwellinghouse or other building shall, upon becoming the recipient of the grant by succession or otherwise, give notice forthwith to the Secretary of State to that effect.

(5) The recipient of a grant who proposes to do any other thing which would result in the recorded conditions ceasing to be observed shall notify the Secretary of State in writing accordingly.

Recovery and repayment of grant

8.—(1) Subject to the provisions of section 26(11) of the Agriculture Act 1967(**a**), if at any time during the period during which the recorded conditions apply to any building the Secretary of State has reason to believe that there has been a failure to comply with any of those conditions or has reason to believe that there will within six months from the date of the notice aftermentioned be such a failure, the Secretary of State may give to the recipient of the grant notice in writing requiring him to make payment of a sum calculated in accordance with paragraph (4) of this regulation in repayment of the grant and the recipient of the grant shall, unless he satisfies the Secretary of State that there has not been or will not be such a failure as aforesaid, make payment of that sum to the Secretary of State accordingly.

(2) In the event of any such building being destroyed or so damaged by fire during the said period as to be rendered unfit, in the case of a dwellinghouse, for human habitation or, in the case of any other building, for the agricultural use for which it was designed, the Secretary of State may give to the recipient of the grant notice in writing requiring him to make payment of a sum calculated in accordance with the provisions of paragraph (4) of this regulation in repayment of the grant and the recipient of the grant shall make payment of that sum to the Secretary of State accordingly.

(3) The recipient of a grant may repay the grant by making payment to the Secretary of State of a sum calculated in accordance with the provisions of paragraph (4) of this regulation or such lesser amount as, in the circumstances of any particular case, the Secretary of State in his discretion may determine.

(4) The sum referred to in paragraphs (1) (2) and (3) of this regulation shall be a sum bearing the same proportion to the grant made in respect of the building in question as the period between the date of the notice given under paragraph (1) or paragraph (2) of this regulation in relation to that building or, when paragraph (3) of this regulation applies, the date of repayment, and the expiration of the period specified in regulation 6 of these regulations, bears to the whole of that period, together with interest at the rate of 12½ *per centum per*

(**a**) 1967 c. 22.

annum on that sum from the date on which payment of the grant or the instalment was made until repayment.

(5) Where the tenancy of a croft upon which is situated a dwellinghouse or other building, or where a cottar's tenancy of a dwellinghouse in respect of which a grant has been made terminates, the owner shall be deemed to be the recipient of the grant during any period during which the croft or, as the case may be, the dwellinghouse, remains unlet and unoccupied.

(6) There shall be deemed to have been a failure to comply with the recorded conditions if the recipient of the grant sells, lets or otherwise disposes of the building—

(a) where the recipient of the grant is a crofter, otherwise than to a member of his family or to another crofter;

(b) in any other case, to a person other than a crofter.

(7) It shall be no objection to a notice given under this regulation in respect of a failure existing at the date at which the notice is given that the notice was not given immediately, or at any particular interval, after the existence of the failure first came to the Secretary of State's knowledge, or that the failure first occurred before the recipient of the grant to whom the notice is given became tenant of the croft, or, as the case may be, of the dwellinghouse, or the owner-occupier of the holding on which the dwellinghouse or other building in question is situated, or that the Secretary of State could have required repayment of the grant at a date earlier than that at which the notice was given.

9. On the expiry of the period of the grant or on the making by the recipient of a grant of any such payment as is referred to in regulation 8 of these regulations, these regulations and the recorded conditions shall cease to apply to the building and the Secretary of State shall cause to be recorded in the Register of Sasines a notice in the form set out in Schedule 2 to these regulations or a form to the like effect stating that the conditions have ceased so to apply.

Grant in relation to compensation

10.—(1) If at any time within the period during which the recorded conditions have effect in relation to a building compensation under the Act of 1955 becomes payable in respect of the building, so much of the value of the building as is attributable to the grant, or to so much of the grant as is outstanding at the date on which compensation becomes payable, shall be deducted therefrom.

(2) The landlord of any such building shall not, at any time during the said period, be entitled to obtain any consideration by way of rent or otherwise in respect of so much of the value of the building as is attributable to the work towards which the grant was made.

Transitional provisions

11.—(1) In the case of a building in respect of the erection or rebuilding of which a grant was made under the Landholders and Cottars (Building Grant)

(Scotland) Regulations 1949(**a**) or under the Crofters etc. Building Grants (Scotland) Regulations 1956(**b**) and conditions remain to be observed in terms of either of those regulations at the date of the coming into operation of these regulations then—

(a) where the grant was made prior to 8th November 1972 such conditions shall cease to have effect as from the date of the coming into operation of these regulations;

(b) where the grant was made on or after 8th November 1972 such conditions shall cease to have effect on the expiry of a period of 10 years beginning with the day on which in accordance with the provisions of the regulations under which the grant was paid the work of erection or rebuilding was in the opinion of the Secretary of State completed.

(2) In the case of a building in respect of the improvement of which a grant was made under the Crofters etc Building Grants (Scotland) Regulations 1956 and conditions remain to be observed in terms of those regulations at the date of the coming into operation of these regulations—

(a) where the grant was made prior to 8th November 1977 such conditions shall cease to have effect as from the date of the coming into operation of these regulations;

(b) where the grant was made on or after 8th November 1977 the conditions shall cease to have effect on the expiry of a period of 5 years beginning with the day on which in accordance with the provisions of the regulations of 1956 the work of improvement was in the opinion of the Secretary of State completed.

(3) On the expiry of the period of the grant in accordance with this regulation, the Secretary of State shall cause to be recorded in the Register of Sasines a notice in the form of Schedule 3 to these regulations or a form to the like effect stating that the said conditions have ceased so to apply.

Revocation

12. The Landholders and Cottars (Building Grant) (Scotland) Regulations 1949, the Landholders and Cottars (Building Grant) (Scotland) Amendment Regulations 1950(**c**), the Crofters etc Building Grants (Scotland) Regulations 1956 and the Crofters etc Building Grants (Withdrawal of Conditions) (Scotland) Regulations 1965(**d**) are hereby revoked, but without prejudice to anything duly done or any right, obligation or liability acquired accrued or incurred thereunder.

George Younger,
One of Her Majesty's
Principal Secretaries of State.

New St. Andrew's House,
Edinburgh.
29th September 1982.

(**a**) S.I. 1949/946.
(**b**) S.I. 1956/775.
(**c**) S.I. 1950/1304.
(**d**) S.I. 1965/2153.

SCHEDULE 1 Regulation 4

FORM OF NOTICE UNDER REGULATION 4 OF THE CROFTERS ETC. BUILDING GRANTS (SCOTLAND) REGULATIONS 1982 OF PAYMENT OF A GRANT

CROFTERS (SCOTLAND) ACT 1955
CROFTING REFORM (SCOTLAND) ACT 1976

Notice of Payment of Grant

WHEREAS the Secretary of State, in accordance with the provisions of the Crofters (Scotland) Act 1955, as read with the Crofting Reform (Scotland) Act 1976 and the Crofters etc Building Grants (Scotland) Regulations 1982 (hereinafter referred to as "the regulations") has made a grant of Sterling in respect of
(hereinafter referred to as "the building") situated on the subjects described in the Schedule hereto to (who, together with any transferee on intestacy or legatee of his who succeeds him in occupation of the said subjects and any other person who becomes occupier thereof is hereinafter referred to as "the recipient of the grant");

NOW, THEREFORE, notice is hereby given in accordance with regulation 4 of the regulations, that for the period of years commencing on the day of 19 the following conditions shall, by virtue of regulation 5 of the regulations, be observed with respect to the building:—

(1) the building, being a dwellinghouse, shall—

(a) where the recipient of the grant is a person deemed by virtue of section 22(6) of the said Act of 1955 to be a crofter or is a person who has, after the application for grant but before the making of the grant, become the owner of the holding on which the dwellinghouse is situated, be occupied as part of that holding by that person or his family;

(b) in any other case, be occupied by the recipient of the grant or his family;

(2) the building, not being a dwellinghouse, shall be used by the recipient of the grant for the purpose of the working of his croft or holding;

(3) the recipient of the grant shall maintain the building to the satisfaction of the Secretary of State;

(4) the recipient of the grant shall keep the building insured against destruction or damage by fire for such sum and with such insurance company as the Secretary of State may from time to time approve, and the receipts for the premiums in respect of the renewals of such insurance shall be exhibited to the Secretary of State on demand;

(5) the recipient of the grant shall permit any person duly authorised by the Secretary of State in that behalf at all reasonable times to enter and inspect the building for the purpose of ascertaining whether the provisions of the regulations are being complied with in respect of the building.

Notice is further hereby given that in the event of the breach of any of the foresaid conditions or upon the occurrence of any of the other events specified in regulation 8 of the regulations then by virtue of the said regulation 8 there shall on demand by the Secretary of State by notice in writing to that effect become payable to him by the recipient of the grant for the time being a sum being the appropriate proportion specified in paragraph (4) of the said regulation 8 of the said grant together with interest at the rate of 12½ per centum per annum on the said sum from the date on which payment of the said grant was made until the date of payment of the said sum.

Given under the Seal of the Secretary of State for Scotland the day of 19

Department of Agriculture and Fisheries for Scotland.

SCHEDULE

Description of subjects, stating parish and county	Name and designation of present landlord

Regulation 9

SCHEDULE 2

FORM OF NOTICE UNDER REGULATION 9 OF THE CROFTERS ETC. BUILDING GRANTS (SCOTLAND) REGULATIONS 1982 OF CESSER OF CONDITIONS OF GRANT

CROFTERS (SCOTLAND) ACT 1955
CROFTING REFORM (SCOTLAND) ACT 1976

Notice of Cesser of Conditions of Grant

WHEREAS the Secretary of State made a grant of Sterling under the provisions of the Crofters etc Building Grants (Scotland) Regulations 1982 towards the of the building described in the Schedule hereto;

AND WHEREAS notice of payment of the said grant dated was recorded in the Division of the General Register of Sasines applicable to the county of on the day of 19 ;

AND WHEREAS repayment of the amount of the said grant has now been made to the Secretary of State,

NOW THEREFORE, in accordance with the provisions of regulation 9 of the said regulations, the Secretary of State hereby gives notice that the conditions of grant specified in the said Notice of Payment of Grant recorded in the said Division of the General Register of Sasines ceased to apply as from the day of 19 .

Given under the Seal of the Secretary of State for Scotland the day of 19 .

Department of Agriculture and Fisheries for Scotland.

SCHEDULE

Description of subjects, stating parish and county	Name and designation of present landlord

SCHEDULE 3 Regulation 11

FORM OF NOTICE UNDER REGULATION 11 OF THE CROFTERS ETC. BUILDING GRANTS (SCOTLAND) REGULATIONS 1982 OF CESSER OF CONDITIONS OF GRANT

CROFTERS (SCOTLAND) ACT 1955
CROFTING REFORM (SCOTLAND) ACT 1976

Notice of Cesser of Conditions of Grant

WHEREAS the Secretary of State made a grant of Sterling under the provisions of the Regulations 19 towards the of the on the subjects described in the Schedule hereto;

AND WHEREAS notice of payment of the said grant dated was recorded in the Division of the General Register of Sasines applicable to the County of on ;

AND WHEREAS in accordance with the provisions of regulation of the said regulations the conditions set out in the said Notice of Payment were to apply for the period of years commencing on the day of 19 ;

AND WHEREAS by virtue of regulation 11 of the Crofters etc Building Grants (Scotland) Regulations 1982 the said conditions have ceased to apply;

NOW, THEREFORE, in accordance with the provisions of the last mentioned regulation the Secretary of State hereby gives notice that the conditions of grant specified in the said Notice of Payment of Grant ceased to apply as from the day of 19 .

Given under the Seal of the Secretary of State for Scotland the day of 19 .

Department of Agriculture and Fisheries for Scotland.

SCHEDULE

Description of subjects, stating parish and county	Name and designation of present landlord

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Sections 22 and 28 of the Crofters (Scotland) Act 1955 empower the Secretary of State to provide assistance by way of grant towards the erection, improvement or rebuilding of dwelling houses and other buildings for crofters and cottars. Section 31 of the Crofters (Scotland) Act 1955 empowers the Secretary of State to provide such assistance towards the erection, improvement or rebuilding of buildings other than dwelling houses for owner-occupiers of substantially the same economic status as crofters. Section 12 of the Crofting Reform (Scotland) Act 1976 further empowers the Secretary of State to provide such assistance to crofters and their family nominees and members of their families and cottars who acquire the site of their dwelling house, for a period of 7 years from the acquisition.

These regulations made under section 22(4) of the Crofters (Scotland) Act 1955 and section 14(2) of the Crofters (Scotland) Act 1961 prescribe the conditions to be observed with respect to such dwelling houses and other buildings so long as any such grant is outstanding, subject to a maximum period of 10 years in the case of erection or rebuilding and 5 years in the case of improvement. The regulations also provide for recovery of the grant in the event of a breach of the conditions and for repayment by the recipient, and prescribe the form of notices to be recorded in the General Register of Sasines.

The regulations reduce the maximum period for which the conditions in respect of grants made under the Landholders and Cottars (Building Grant) (Scotland) Regulations 1949 and the Crofters etc Building Grants (Scotland) Regulations 1956 are to apply. The period of 40 years (in the case of erection and rebuilding) is reduced to 10 years and the period of 20 years (in the case of improvement) is reduced to 5 years.

The Landholders and Cottars (Building Grant) (Scotland) Regulations 1949, the Landholders and Cottars (Building Grant) (Scotland) Amendment Regulations 1950, the Crofters etc Building Grants (Scotland) Regulations 1956 and the Crofters etc Building Grants (Withdrawal of Conditions) (Scotland) Regulations 1965 are revoked.

SI 1982/1419
ISBN 0-11-027419-9

