

NOTIFICATIONS AND GROUNDS AND DECISIONS FOR APPLICATIONS DECIDED

Applications between 22/10/18 – 28/10/18

N.B. If your area is not shown in the list below, this is due to no notifications being recorded/ applications decided in your area for the specified period.

Argyll, Skye & Lochalsh, South and West Inverness

Croft: Lower Harrapool (School Croft)
Parish: Strath
Reg No: I4046
Case No: 90415
Application Type: Decrofting – Part Croft

Decision – Approved	Extent: 0.162 ha
Grounds for Decision	
Having considered all of the available information, the Commission is satisfied this application is for a reasonable purpose and that the extent of the land applied for is not excessive in relation to that purpose. The Commission has therefore agreed to grant the Direction as requested.	
Conditions of Direction	
<ol style="list-style-type: none"> 1. The land must as a first change of use, be used, let or disposed of as site for a dwellinghouse. 2. The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the development being completed. 3. That fence must be maintained in good order and repair by each successive owner or occupier of the land. 	

Croft: 1 Achnacloich
Parish: Sleat
Reg No: I3280
Case No: 87000
Application Type: Decrofting – Croft House Site and Garden Ground

Decision – Approved	Extent: 0.2 ha
Grounds for Decision	
Having considered all of the available information, the Commission is satisfied as required by the Crofters (Scotland) Act 1993 that the site consists only of the dwellinghouse on or pertaining to the croft and that the extent of the garden ground is appropriate for the reasonable enjoyment of the dwellinghouse as a residence and has agreed to grant the Direction as requested.	
Conditions of Direction	
Enclosure of area:	<p>The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the date of the Direction.</p> <p>That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</p>

Croft: **½ of 4 Herbusta (S)**
Parish: **Kilmuir (Skye)**
Reg No: **I2657**
Case No: **91870**
Application Type: **Assignment**

Decision – Approved
Grounds for Decision
Having considered all of the available information, the Commission is satisfied that the application does not adversely affect the interests of the estate, the crofting community, the public at large or will have an adverse effect on the sustainable development of the crofting community and the application has been granted.

Croft: **½1 Earlish**
Parish: **Snizort**
Reg No: **I3662**
Case No: **91763**
Application Type: **Decrofting – Part Croft**

Decision – Approved	Extent: 0.16 ha
Grounds for Decision	
Having considered all of the available information, the Commission is satisfied this application is for a reasonable purpose and that the extent of the land applied for is not excessive in relation to that purpose. The Commission has therefore agreed to grant the Direction as requested.	
Conditions of Direction	
<ol style="list-style-type: none"> 1. The land must as a first change of use, be used, let or disposed of as site for a dwellinghouse. 2. The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the development being completed. 3. That fence must be maintained in good order and repair by each successive owner or occupier of the land. 	

Croft: **2 Portnaluchaig**
Parish: **Arisaig & Moidart**
Reg No: **I0147**
Case Number: **86258**
Application Type: **Decrofting – Part Croft**

Decision – Approved	Extent: 0.156 ha
Grounds for Decision	
Having considered all of the available information, the Commission is satisfied this application is for a reasonable purpose and that the extent of the land applied for is not excessive in relation to that purpose. The Commission has therefore agreed to grant the Direction as requested.	
Conditions of Direction	
<p>The land must as a first change of use, be used, let or disposed of as a dwelling house.</p> <p>The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the development being completed.</p> <p>That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</p>	

Croft: 7 Bornesketaig
Parish: Kilmuir (Skye)
Reg No: I7480
Case No: 92148
Application Type: Assignation

Decision – Approval

Grounds for Decision

The Commission has considered the application under section 8 of the Crofters (Scotland) Act 1993 (“the Act”) to assign the tenancy of the croft at 7 Bornesketaig, Kilmuir and has decided to approve the application on the following grounds:

Section 58A(7) of the Act stipulates the factors to which the Crofting Commission is obliged to give regard to when reaching a decision on applications for Commission consent to the assignation of a tenanted croft.

- We have had regard to whether the proposed assignee will be ordinarily resident on, or within 32 kilometres, of the croft. We are satisfied from the available evidence that the assignee anticipates that he will be in a position to comply with the residency duty within 2 years of the approval. The reason for this timeframe is that the proposed assignee is currently serving with the armed forces. In the circumstances we consider this to be a realistic timescale to comply with the residency duty.
- In terms of Section 58A(7)(a)(ii) of the Act, the Commission must have regard to whether the croft is being or will be cultivated or put to such other purposeful use and are satisfied from the available evidence that the proposed tenant has made arrangements for ensuring the croft is cultivated during his absence and that he will cultivate the croft himself when he takes up residence on the croft.
- The Commission must give regard to the interests of the estate under subsection 58A(7)(b) of the Act. We have not received an objection from the landlord/estate in respect of the land to which this application relates and therefore do not consider that the interests of the estate will be adversely affected.
- Sections 58A(7)(c) and (d) of the Act relate to the interests of the crofting community in the locality of the croft and the sustainable development of that crofting community. We have not received any objection to this application from any member of the crofting community. The Commission therefore consider that approving this application will not have an adverse effect on the interest of the crofting community in the locality of the croft or on the sustainable development of that crofting community
- The interests of the public at large must also be taken into account under subsection 58A(7)(e) of the Act. The Commission has found no evidence to suggest that the interests of the public at large would be affected, either positively or negatively by the proposed division.
- Subsection 58A(7)(f) of the Act relates to any objections received to the application. The Commission notes that no objections were received to the public notification process of the application, nor were any expressions of demand received in respect of the tenancy of the croft.

Croft: 6 Fiscavaig
Parish: Bracadale
Reg No: I0752
Case Number: 90507
Application Type: Consent to be absent – Extension

Decision – Approved
Grounds for Decision
The Commission has considered the application for consent to be absent from the croft under section 21B of the Crofters (Scotland) Act 1993 and is satisfied that there is a good reason for the crofter not to be ordinarily resident on, or within, 32 kilometres of the croft.

Caithness, Orkney & Shetland

Croft: Brough, Midbrake, Yell
Parish: Yell
Reg No: Z2734
Case No: 89683
Application Type: Decrofting – Part Croft

Decision – Approved	Extent: 0.097 ha
Grounds for Decision	
Having considered all of the available information, the Commission is satisfied this application is for a reasonable purpose and that the extent of the land applied for is not excessive in relation to that purpose. The Commission has therefore agreed to grant the Direction as requested.	
Conditions of Direction	
The land must as a first change of use, be used, let or disposed of as the site of a new dwellinghouse.	
The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the development being completed.	
That fence shall be maintained in good order and repair by each successive owner or occupier of the land.	

Highland (excl Caithness)

Croft: 5 Durnamuck
Parish: Lochbroom
Reg No: R2576
Case Number: 92425
Application Type: Consent to be absent

Decision – Approved
Grounds for Decision
The Commission has considered the application for consent to be absent from the croft under section 21B of the Crofters (Scotland) Act 1993 and is satisfied that there is a good reason for the crofter not to be ordinarily resident on, or within, 32 kilometres of the croft.

Croft: 327 Hilton
Parish: Embo
Case Number: 77636
Reg Number: S2726
Application Type: Assignation

Decision – Approval

Grounds for Decision

The Commission has considered this application submitted under section 8 and section 58A of the Crofters (Scotland) Act 1993 (“the 1993 Act”) to assign the tenancy of the croft comprising the grazing share formerly pertaining to 327 Hilton, Embo and have decided to approve the application on the following grounds:

Section 58A(7) of the Crofters (Scotland) Act 1993 (“the 1993 Act”) stipulates the factors to which the Crofting Commission (“the Commission”) is obliged to have regard to when reaching a decision on applications for Commission consent to assign a tenancy.

Section 58A(7)(a)(i) of the Act requires the Commission to have regard to: “whether any person is, or will be ordinarily resident on, or within 32 kilometres of the croft”. The Commission note the proposed tenant resides less than 32 km from the common grazings and are therefore satisfied that the statutory residency duty will be met.

Section 58A(7)(a)(ii) of the Act requires the Commission to have regard to “whether the croft is being or will be cultivated or put to such other purposeful use as is consented to under section 5C(4).” The assignation of this grazing share consists of a right to graze in Hilton Embo Common Grazing. The Commission notes from the SGRPID report that none of the shares in the common grazings are currently being used. Nevertheless, Hilton Embo Common Grazings remains a common grazings and it is open to shareholders to seek to exercise their right in the grazings in terms of any applicable grazings regulations and in terms of their soumings. The proposed tenant has indicated that he proposes to use the grazing share as an adjunct to his crofting operations. The Commission are therefore satisfied that the proposed tenant may potentially use the share.

Section 58A(7)(b) requires consideration of the interests of the estate which comprises the land to which the application relates. The Commission further notes that the landlord, or owner(s) of the land, have not made any comments to the Commission on the application and therefore the Commission has no information as to whether the application will have an impact on the interests of the estate either positively or negatively.

Subsection 58A(7)(c) and (d) of the Act relates to the interests of the crofting community in the locality of the croft, and to the sustainable development of that community. The Commission notes that the current tenant is not ordinarily resident and the assignation of this grazing share is to a person who is residing locally. The Commission therefore do not consider that the assignation would be detrimental to these interests.

The interests of the public at large must also be taken into account under subsection 58A(7)(e) of the Act. The Commission has found no evidence to suggest that the interests of the public at large would be affected, either positively or negatively, by the proposed assignation.

Subsection 58A(7)(f) relates to any objections received under subsection (4) or 5(A) of the Act. The Commission received an objection and an expression of demand in response to the public notification of the application. The Commission does not have any authority to select a tenant where a competent application is made to assign a grazings share to a named individual; it must assess the application on its merits as it has done in this case. There may well be a benefit in re-associating the owner of croft with the grazing right formerly pertaining to the croft, but that is not an option available to the Commission as it does not have the power to assign the tenancy to another individual when a competent application is made to assign the tenancy to a particular individual.

Section 58A(7)(g) requires that in reaching a decision on such assignation applications, the Commission must have regard to their Policy Plan. The relevant paragraph in relation to assignations is paragraph 106 which states that: *“When considering applications to assign, the Commission will apply the standard requirements and its policies on residency, land use and shared management. The application should show that the proposed assignee is both able to and intends to comply with all the statutory duties and in particular that he or she intends to be ordinarily resident on or within 32 kilometres of the croft and to cultivate and maintain the croft or put it to a purposeful use which has section 5C(4) consent.”* The Commission is satisfied that approval of this application is not contrary to the Policy Plan regarding assignation applications.

For the above reasons provided, the Commission have decided to grant the application.

Croft: 311 Upper Grumby
Parish: Rogart
Reg No: S1815
Case Number: 90876
Application Type: Assignation

Decision – Approved
Grounds for Decision
Having considered all of the available information, the Commission is satisfied that the application does not adversely affect the interests of the estate, the crofting community, the public at large or will have an adverse effect on the sustainable development of the crofting community and the application has been granted.

Western Isles

Croft: **6 Eoropie**
Parish: **Barvas**
Reg No: **R0675**
Case No: **80656**
Application Type: **Assignment**

Decision – Approved

Grounds for Decision

The Commission has considered the application to assign the tenancy of the croft (including grazing share) at 6 Eoropie, Barvas under section 8 of the Crofters (Scotland) Act 1993 (“the 1993 Act”) and has approved the application on the following grounds:

We have had regard to whether the proposed assignee will be ordinarily resident on, or within 32 kilometres, of the croft and are satisfied from the available evidence that the assignee will be in a position to comply with the residency duty.

We have had regard to whether the croft will be cultivated or put to a purposeful use under section 5C(4) of the 1993 Act. The Commission note, from the available evidence as set out in the application and the SGRPID report, that the proposed tenant is already an active crofter with two crofts in the township of Eoropie and one croft in the township of South Dell and maintains a flock of around 40 sheep including hogs. While we further note the qualifying comment in the SGRPID report that these existing three crofts are adequate for the proposed assignee’s current agricultural activity, the Commission has recognised that it is his stated intension on retirement to significantly increase his stock numbers and to fully utilise his available land. The Commission is therefore satisfied from the available evidence that the propose assignee will cultivate the croft.

We have received no objection from the landlord/estate in respect of the land to which the application relates and do not therefore consider on the available evidence that the interests of the estate will be adversely affected.

We have received no objections from any members of the crofting community. The Commission have noted the comments on the SGRPID report that approving the assignment could have a negative impact on the crofting community as it would mean that the proposed assignee would hold three crofts in the township. However, the Commission note that there is a total of 37 crofts in the township, that it is a modest sized croft at only 1.44 ha, and that approving the application would support the activities of an active crofter in the community and assist them develop their crofting enterprise. On balance therefore, the Commission consider any adverse effects of approving the application on the interests of the crofting community in the locality of the croft or on the sustainable development of that crofting community are outbalanced by the contribution an active crofter will make to the crofting community and its sustainable development.

We are satisfied on the available evidence that the approval of the assignment will not adversely affect the interests of the public at large.

We have not received any other objections under subsection (4) or (5A) of section 58A of the 1993 Act.

We have had regard to the Commission’s Policy Plan and are satisfied that the consent hereby provided is consistent with our Policy Plan in relation to assignment.

For the foregoing reasons the application is approved

Croft: 24 Borge, Berneray
Parish: Harris
Reg No: I1575
Case Number: 90260
Application Type: Extension to Consent to be absent

Decision – Approved
Grounds for Decision
The Commission has considered the application for consent to be absent from the croft under section 21B of the Crofters (Scotland) Act 1993 and is satisfied that there is a good reason for the crofter not to be ordinarily resident on, or within, 32 kilometres of the croft.