

Application to Create a New Croft

Guidance Notes

We have written these notes to help you fill in your application. If the form is not completed correctly we will have to send it back to you.

- **Parts 1, 2, 6, 7, 8, 10 & 11** of the form must be completed by all applicants.

and:

- **Part 3** should be completed by all owner applicants and if the holding is tenanted, owners must also complete **Part 5**
- **Part 4** should be completed by tenant applicants
- **Part 9** provides us with additional information and completion is optional

Part 1 – Contact Details

Please fill in as many details as possible about yourself – and about your agent, if you've appointed one. If you have an appointed agent, we'll correspond with them.

Important: *If your holding is owned by more than one person, you must provide the name and contact details for all owners.*

All fields marked with an *asterisk must be filled in.

- If you are applying as the tenant of a holding, you should provide the contact details for the owner of the land and any agent appointed to act on their behalf.
- If you are applying as the owner of a tenanted holding, you should provide the contact details for your tenant.
- If your application is approved, the contact details of all parties with a direct interest in the holding will be entered on our Register of Crofts.

Part 2, 3, 4 & 5 – Your Status, Eligibility Criteria & Tenancy Details

Who can apply to register land?

(a) If you are a landowner of a holding located anywhere in Scotland you can apply providing:

- your holding is located outwith the crofting counties you must provide us with a copy of an Order from the Scottish Ministers designating the area as being suitable for creating new crofts.

Or:

(b) If you're the tenant of a holding located outwith the crofting counties** you can apply, providing:

- you have a certificate from the Scottish Land Court confirming your existing status under the Small Landholders Acts, 1886 to 1931;
- you have a copy of an Order from the Scottish Ministers designating the area as being suitable for creating new crofts;
- your tenancy does not form part of a larger agricultural unit or business; and
- you have reached agreement about any compensation payable to the owner.

Supplementary Criteria for Owners of Tenanted Holdings

If your holding is tenanted, you must also obtain the written agreement of your tenant before we can consider your application. A blank form of agreement is at Appendix 1 at the end of the application form.

You must also let us know if it is your intention to change the statutory conditions of tenure. For ease of reference a copy of the statutory Conditions are given at Appendix 1 at the end of this note. Please note only certain conditions can be changed without an application to the Scottish Land Court. If you have any queries about changing the conditions you should contact the Scottish Land Court, George House, 126 George Street, Edinburgh EH2 4HH.

Important: If you do not meet the above criteria, you are not eligible to apply.

****What are the Crofting Counties?**

The crofting counties comprise the former counties of Argyll, Inverness, Ross and Cromarty, Sutherland, Caithness, Orkney and Shetland

If you are unsure whether your holding is located within the crofting counties, a map on the next page should be of help. If you remain unsure, please contact us for further guidance. Our contact details appear at the end of this note.

Part 6 & 7 – Application and Holding Details

You should let us know why you are applying to register your holding and tell us about the holding and how it is managed. The details provided will help us in reaching a decision on your application.

If your application is approved the name, extent and, if applicable, the rent will be entered in our records.

We also ask several questions about the use of the land in order that we have as much information as possible before taking a decision.

Part 8 – Socio Economic Or Public Interest Information

In considering your application we must consider any social, economic or public interest benefits that will result if the land is registered as a new croft. You should provide us with any information to support your application and, if appropriate, provide supporting documentation.

Part 9 – Other Information

You need only complete this part of the form if you have additional information you think would help us to reach a decision on your application. Extra information could include any plans you have for the holding, or whether your plans will only be possible if we grant your application.

If there isn't enough space to give a full answer, you are welcome to attach additional pages to the application.

Part 10 - Application Documentation

All applications must be accompanied by a scale plan. The plan should:

- be an Ordnance Survey type plan on a scale of 1:2500 or 1:10000 or similar;
- have the boundaries of the Holding clearly drawn or marked; and
- contain sufficient surrounding established detail (for example fences, houses, roads and so on) to enable the location of the holding to be fixed.

We also need the documents at 1, 2, 3, 4 and 5 below:

- 1 If the land is located outwith the Crofting Counties, your application must be accompanied by:**
 - a copy of the Order by Scottish Ministers confirming your holding is in an area designated as being suitable to create new crofts.
- 2 If any part of your holding is designated by Scottish Natural Heritage as a Natural Nature Reserve (NNR), an Environmentally Sensitive Area (ESA), a Site of Special Scientific Interest (SSSI), a Special Area of Conservation (SAC), or a Special Protection Area (SPA) your application must be accompanied by:**
 - a copy of any Management Agreement with Scottish Natural Heritage
- 3 If you are a tenant, your application must be accompanied by:**
 - a copy of a Scottish Land Court certificate confirming your tenancy is eligible for registration
- 4 If you are a landowner of a tenanted holding, your application must be accompanied by:**
 - written confirmation from the tenant that they are in agreement with the application; **and**
 - a copy of the amended conditions of let, if you intend to change any of the standard conditions of let (Appendix 2).
- 5 If you are a landowner of a tenanted holding where the conditions of let do not match the statutory conditions of tenure as described in the Crofters (Scotland) Act 1993 (at Appendix 1) your application must be accompanied by:**
 - a copy of the varied conditions of let

Part 11 – Applicant Declaration

The application must be signed by you (as applicant) or your appointed agent:

Important Note For Owners: *If you own the area jointly, all parties must sign the form unless you have appointed an agent to act on your behalf. If one owner has been appointed by the others to act as your agent, we must have separate written agreement to this effect signed by all the owners.*

N.B. If we approve this application, you will be entered in our Register as the constituting landlord of the new croft. If the land is currently let to a tenant, they will be shown on the Register of Crofts as the tenant of the croft. If the land is not currently let, the new croft will be shown on the Register of Crofts as vacant.

What Happens Next?

Please send the completed application form to:

Crofting Commission
Great Glen House
Leachkin Road
Inverness
IV3 8NW

When a properly completed application is lodged with us, we will send you (or your agent if applicable) an acknowledgement letter within five working days confirming receipt. Our letter will also:

- explain the application process;
- give you a reference number for you to quote if you need to contact us; and
- give you the name of the officer dealing with your application.

APPENDIX 1 – Statutory Conditions of Tenure

Crofters (Scotland) Act 1993 Schedule 2

The Statutory Conditions

- 1 The crofter shall pay his rent at the terms at which it is due and payable.
- 2 The crofter shall not, except in accordance with the provisions of this Act, execute any deed purporting to assign his tenancy.
- 3 The crofter shall, by himself or his family, with or without hired labour, cultivate his croft, without prejudice to the right hereby conferred on him to make such use thereof for subsidiary or auxiliary occupations as, in case of dispute, the Land Court may find to be reasonable and not inconsistent with the cultivation of the croft.
- 4 The crofter shall provide such fixed equipment on his croft as may be necessary to enable him to cultivate the croft.
- 5 The crofter shall not, to the prejudice of the interest of the landlord, persistently injure the croft by the dilapidation of buildings or, after notice in writing has been given by the landlord to the crofter not to commit, or to desist from, the particular injury specified in the notice, by the deterioration of the soil.
- 6 The crofter shall not sublet his croft, or any part thereof, otherwise than with the consent in writing of the Commission and in accordance with such conditions (which shall not include conditions relating to rent) as the Commission in giving their consent may impose:

Provided that nothing in this paragraph shall be construed as debarring a crofter from subletting any dwellinghouse or other building forming part of his croft to holiday visitors.
- 6A The crofter shall be responsible for ensuring, where the croft is sublet, that the subtenant adheres to the statutory conditions.
- 7 The crofter shall not, except in accordance with the provisions of this Act, divide his croft.
- 8 The crofter shall not, without the consent in writing of the landlord, erect or suffer to be erected on the croft any dwellinghouse otherwise than in substitution for a dwellinghouse which at the commencement of this Act was already on the croft:

Provided that, if at the commencement of this Act there was no dwellinghouse on the croft, the crofter may erect one dwellinghouse thereon.
- 9 The crofter shall not violate any written condition signed by him for the protection of the interest of the landlord or of neighbouring crofters which is legally applicable to the croft and which the Land Court shall find to be reasonable.
- 10 The crofter shall not do any act whereby he becomes apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985.

Statutory Conditions of Tenure (Cont'd)

- 11 The crofter shall permit the landlord or any person authorised by the landlord in that behalf to enter upon the croft for the purpose of exercising (subject always to the payment of such compensation as in case of dispute the Land Court may find to be reasonable in respect of any damage done or occasioned thereby) any of the following rights, and shall not obstruct the landlord or any person authorised as aforesaid in the exercise of any of such rights, that is to say —
- (a) mining or taking minerals, or digging or searching for minerals;
 - (b) quarrying or taking stone, marble, gravel, sand, clay, slate or other workable mineral;
 - (c) using for any estate purpose any springs of water rising on the croft and not required for the use thereof;
 - (d) cutting or taking timber or peats, excepting timber and other trees planted by the crofter or any of his predecessors in the tenancy, or which may be necessary for ornament or shelter, and excepting also such peats as may be required for the use of the croft;
 - (e) opening or making roads, fences, drains and water courses;
 - (f) passing and re-passing to and from the shore of the sea or any loch with or without vehicles for the purpose of exercising any right of property or other right belonging to the landlord;
 - (g) viewing or examining at reasonable times the state of the croft and all buildings or improvements thereon;
 - (h) hunting, shooting, fishing or taking game or fish, wild birds or vermin;

but nothing in this paragraph shall be held to preclude the crofter from recovering any compensation for damage by game which is recoverable under section 52 of the Agricultural Holdings (Scotland) Act 1991, or by virtue of section 53(3) of the Agricultural Holdings (Scotland) Act 2003 (asp 11) by a tenant.

- 11A Nothing in paragraph 11 above shall be held to allow, or require the crofter to allow, the landlord, or any person authorised by the landlord, to exercise unreasonably a right enjoyed by virtue of that paragraph.
- 12 The crofter shall not on his croft, without the consent in writing of the landlord, open any house for the sale of intoxicating liquors.
- 13 In this Schedule —
- 'cultivate' includes the use of a croft for horticulture or for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, the growing of fruit, vegetables and the like and the planting of trees and use of the land as woodlands;
 - 'game' means deer, hares, rabbits, pheasants, partridges, grouse, blackgame, capercaillie, ptarmigan, woodcock, snipe, wild duck, widgeon and teal.