

# Application for Consent to be Absent from Croft



**CROFTING COMMISSION  
COIMISEAN NA CROITEARACHD**

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## IMPORTANT INFORMATION

The Crofting Commission aims to regulate crofting to promote occupancy of crofts, active land use and shared management by crofters as a means of sustaining and enhancing rural communities (See Appendix 1).

This application form can be completed by tenants and owner-occupier crofters who are seeking the Commission's consent to be absent from their croft. (A crofter is considered absent if they are ordinarily resident more than 32 km (20 miles) from their croft).

Tenants of crofts and/or grazings shares must send a copy of this form to their landlord prior to submitting the form to the Commission. Failure to do so will result in any consent to be absent being withdrawn.

It is important that you provide as much relevant information as necessary. If there is insufficient space for answering specific questions, you should continue on an additional sheet of paper indicating which question you are responding to.

**This application only covers the duty to be ordinarily resident. The other duties must also be complied with and details of how this is to be achieved are required in this form.**

Please note that any information you provide is part of an open process and may be made available to other parties involved in the process. Your information would also be released under a Freedom of Information enquiry subject to any disclosure exemptions under the Data Protection Act 1998.

If the application is being submitted by anyone other than the crofter or their Solicitor, the form should be accompanied by written confirmation from the crofter that they have authorised the signatory to act as their agent.

**PLEASE READ THROUGH THE WHOLE FORM AND APPENDIX BEFORE ENTERING ANY INFORMATION. FORMS WHICH ARE INCOMPLETE OR CONTAIN INFORMATION WHICH DOES NOT MATCH THAT CURRENTLY HELD ON THE REGISTER OF CROFTS MAY BE RETURNED AS AN INVALID APPLICATION.**

# CROFT AND CONTACT DETAILS

## Croft Details

|                            |                     |
|----------------------------|---------------------|
| Croft Name:                |                     |
| Parish:                    |                     |
| Croft Reference Number: C/ | Main Location Code: |

## CROFTER DETAILS

Tenant  Owner  Owners

1 If joint owners, please supply the names of all parties on a separate sheet.

|   |  |  |
|---|--|--|
| Surname:  |  | Title:   |
| Forename(s):  |  |  |
| Date of Birth:  |  |  |
| Current Residential Address:                                  |  |  |
|   |  |  |
|   |  |  |
|   |  | Post Code:   |
| Telephone:  |  |  |
| Alternative Telephone:  |  |  |
| E-mail Address:   |  |  |
| I agree to communication regarding this application by e-mail |  | Yes <input type="checkbox"/> No <input type="checkbox"/> |

## Agent Details for Crofter (only if applicable)

|   |  |  |
|---|--|--|
| Name:   |  |  |
| Postal Address:   |  |  |
|   |  |  |
|   |  | Post Code:   |
| Telephone:  |  |  |
| Alternative Telephone:  |  |  |
| E-mail Address:   |  |  |
| I agree to communication regarding this application by e-mail |  | Yes <input type="checkbox"/> No <input type="checkbox"/> |

**CROFT OCCUPATION**

2 Please give the dates for the commencement and end of your intended period of absence.

Start Date: \_\_\_\_\_

End Date: \_\_\_\_\_

3 Please provide details of the reasons you are seeking consent to be absent from your croft (see Appendix 1). Supporting documents, i.e. medical certificate, doctor's letters or confirmation of employment contract must be provided where applicable.

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4 Do you have a habitable house on or within 32 km of the croft? Yes  No

(a) If 'Yes', has the house site been decrofted? Yes  No

(b) If 'No', did a house previously exist and, if so, what happened to it?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) If you intend to have a house built on the croft, has the necessary planning permission been obtained or are you in the process of applying for planning permission?

Planning obtained  Applied for  No

(d) Please provide details (including dates, copies of approval)

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(e) What is the intended use for the new house?

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5 If you have a house on the croft, please provide details of any use in the box below.

**Details of individuals residing in croft house (only if applicable)**

|  |  |            |
|--|--|------------|
| Name:  |  |            |
| Postal Address:  |  |            |
|  |  |            |
|  |  |            |
|  |  | Post Code: |
| Telephone:   |  |            |
| Alternative Telephone:   |  |            |
| E-mail Address:  |  |            |
| Relationship to Crofter:   |  |            |
| How is this house used?: <i>*(Please select as appropriate from the selection below)</i> |  |            |
| *long term let <input type="checkbox"/>  | *family use <input type="checkbox"/>                         |            |
| *holiday let <input type="checkbox"/>  | *other ( <i>please provide details on a separate sheet</i> ) |            |

**ACTIVE LAND USE**

**CROFT USE**

6 If you use the croft yourself, please provide details?

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(a) Do you currently have a share in a common grazings? Yes  No

If Yes, please provide details of use including the name of the grazings.

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(b) Do you claim support under any Government Schemes in respect of your croft land? Yes  No

(If Yes, please provide details)

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**CROFT BEING USED BY SOMEONE OTHER THAN APPLICANT**

**Note:** *If someone other than the crofter is using the croft as part of their business, a sublet (tenant) or short term lease (owner-occupier crofter) application may be more appropriate than the consent to be absent application.*

(c) If the croft is being used by someone else in your absence, please provide details of any arrangements that are in place and the name and address of the individual concerned in the box below.

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**Details of individual using the croft (only if applicable)**

|                          |  |            |
|--------------------------|--|------------|
| Name:                    |  |            |
| Postal Address:          |  |            |
|                          |  |            |
|                          |  | Post Code: |
| Telephone:               |  |            |
| Alternative Telephone:   |  |            |
| E-mail Address:          |  |            |
| Relationship To Crofter: |  |            |

(d) Does this individual claim support under any Government Schemes in respect of your croft land, i.e. LFASS, SFP? (If Yes, please provide details).

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7 How do you propose that the croft (and grazings share) will be managed in your absence?

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**SHARED MANAGEMENT**

8 What contribution do you make towards the shared management and support of crofting in your crofting community? (Supporting evidence may be submitted)

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**9 LANDLORD CONFIRMATION**

*(If more than one, please supply additional landlord details on a separate sheet)*

|                                      |                          |                                   |
|--------------------------------------|--------------------------|-----------------------------------|
| Name of Organisation/Company/Estate: |                          |                                   |
| Surname:                             |                          | Title:                            |
| Forename(s):                         |                          |                                   |
| Postal Address:                      |                          |                                   |
|                                      |                          |                                   |
|                                      |                          | Post Code:                        |
| Telephone:                           |                          |                                   |
| Alternative Telephone:               |                          |                                   |
| E-mail Address:                      |                          |                                   |
| Is this the Landlord                 | <input type="checkbox"/> | or Agent <input type="checkbox"/> |

**ADDITIONAL INFORMATION**

10 Please provide any further information that you consider to be relevant to your situation.

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**This application is submitted under section 21B of the Crofters (Scotland) Act 1993 (as amended)**

**I declare that:**

**To the best of my knowledge, the information I have given in this application is correct;**

***(Applicable to tenants ONLY)***

**I have given the croft landlord(s) a copy of this application for consent to be absent. (Landlord details must be printed above).**

**Signed** \_\_\_\_\_  
**Tenant/Owner/Agent**

**Date** \_\_\_\_\_

**Signed** \_\_\_\_\_  
**Tenant/Owner/Agent**

**Date** \_\_\_\_\_

**What Happens Next?**

- When we receive this application, we will send you or your agent an acknowledgement letter within 5 working days.
- We will review the application and make a decision within 28 days.
- We will then notify you of our decision. If you are a tenant, we will notify the landlord(s) of our decision at the same time. The Commission may give consent, with conditions if required, or refuse the application.
- Our decision can be appealed to the Scottish Land Court within 42 days from the date we notify interested parties of our decision.
- If consent is refused, the Commission will consider the absentee position under Breach of Duties Regulations.

## LEGISLATION

Crofters (Scotland) Act 1993 (ss 21B-21D) as amended by the Crofting Reform (Scotland) Act 2010.

*A crofter or an owner-occupier crofter may apply to the Commission for consent to be ordinarily resident other than on, or within 32 kilometres of, the croft or, as the case may be, the owner-occupied croft.*

*The Commission may grant consent, subject to appropriate conditions, if they consider there is good reason for the person not to be ordinarily resident on or within 32 kilometres of the croft.*

## CROFTING COMMISSION POLICY

The Commission will consider applications for consent to be absent and it recognises that there may be legitimate reasons why a crofter is unable to take up residency on a croft for a reasonable period of time. However, the Commission must be satisfied that there is good reason to be absent and the period of time approved for any absence will depend upon the specific circumstances in each case. Any extension will require a further application. Consent to be absent, if granted, will be subject to conditions and the applicant may be requested to provide evidence that the croft will be cultivated or put to purposeful use during their absence. For example, good reasons for absence that the Commission may consider include:

- Where there are medical reasons which prevent ordinary residence on or within 32 kilometres of the croft
- Where the crofter is undertaking training or an educational course that requires residency away from the croft for extended periods of time
- Where the crofter may be working away for a contracted period of time
- Where the croft has recently been assigned or purchased and the crofter is unable to take up immediate residence.

As residency of their croft is a primary duty of crofters, any application on a regulatory matter from an absentee crofter will be required to demonstrate how the proposed activity will help to resolve their absentee status and ensure that the applicant complies with their residency duty.

Where someone decides to leave the area but feels a strong family connection to a place, they can choose to retain their family croft house by applying for a decrofting direction for the statutory house site. It is expected that action on residency will result in increased turnover of crofts, meaning that those who wish to return and take part in active crofting in the future will have increased opportunities to acquire a croft.

The Commission recognises that there may be reasons why a croft is without a resident crofter. There are a number of options open to tenants or owner-occupier crofters who are unable to meet their residency duty for the time being, and we will seek to find equitable and lasting solutions with them to resolve the situation for the benefit of crofting. The Commission wishes to avoid, if at all possible, terminating croft tenancies or requiring letting proposals. This will always be a last resort after the crofter has had every opportunity to resolve the breach of duty. However, such actions may, at times, be necessary.

## **NOTE**

**An application for consent to be absent only addresses the duty of being ordinarily resident on or within 32 km of the croft. If a crofter is also not able to comply with the other duties, an application to sublet (for tenants) or to provide a short term lease (for owner occupier crofters) to a person who is able to comply with the duties may be more appropriate. An application for Consent to be Absent, where the applicant is not operating a business on the croft themselves, may be approved but could be conditioned that a subtenant or short term lessee is sought to address the other duties.**