

## Re-letting of a vacant croft (proposals)

Occurs when the Commission gives notice to the landlord of a vacant croft to submit proposals for re-letting the croft

### LAW

Crofters (Scotland) Act 1993, section 23

*...where a croft is vacant the Commission may, at any time after the expiry of one month from the occurrence of the vacancy, give notice to the landlord requiring him to submit to them, before the expiry of the period of 2 months beginning with the day on which the notice is given, his proposals for re-letting the croft, whether as a separate croft or as an enlargement of another croft. **Section 23(5)***

*No more than three proposals may be submitted to the Commission in response to a notice given under subsection 5. **Section 23(5ZA)***

### POLICY

Crofting Commission Policy Plan on Vacant Crofts

*The Crofting Commission will work with crofting landlords and landowners and encourage them to re-let vacant crofts and to take action, where appropriate, to re-let crofts that are vacant as a result of a failure of succession. Where the Crofting Commission exercises its statutory powers to declare a croft to be vacant, it will work closely with the relevant landlord/landowner to encourage the landlord to re-let the croft.*

*The Commission recognises that previous purchases of crofts and parts of crofts may have left some crofts with a fragmented pattern of ownership. This has left a number of owners of crofts, or parts of crofts, outwith the definition of an owner-occupier crofter. As such, these crofts, although there may be owners of different parts, remain single vacant crofts. The Commission's responsibility is towards maintaining the integrity of the croft and, as such, an application to let a part of a croft will not normally be approved unless there will be demonstrable benefit to crofting in that locality from doing so.*

*The Commission may also take into account how a proposed tenant's land is currently cultivated and maintained in situations where such individuals already have access to other croft or agricultural land. In such circumstances, the Commission will also consider the sustainable development of that crofting community.*

## **PROCEDURE**

- (1) Where a croft (or part of a croft) is vacant the Commission may, at any time after the expiry of one month from the occurrence of the vacancy, give written notice to the landlord requiring him to submit proposals to the Commission for re-letting the croft (or part of a croft), whether as a separate croft or an enlargement of another tenanted croft, within 2 months of the date of the notice. The landlord is entitled to submit up to three proposals, and the Commission must approve or reject proposals within three months of the date of notice being given. A notice will normally be sent by recorded delivery postal service.

***N.B.*** *A proposal to let the croft entails proposing to let it to a specific individual person in a form that is capable of being approved or rejected by the Commission. To this end the Commission will provide a form which will contain a number of questions. The landlord's answers to these questions will provide the basis for the proposal. This will assist the Commission when deciding whether to approve or reject a proposal.*

Where there is a grazings committee in office for the relevant township, the Commission will encourage the landlord to consult with it and give consideration to any recommendations it may make.

- (2) If, within the stipulated 2 month period – either:
- (i) no proposals are submitted by the landlord; or
  - (ii) the landlord has submitted up to three proposals which the Commission has rejected;

then the Commission shall take over the letting process by inviting applications for the tenancy of the croft by public notification<sup>1</sup>.

- (3) A proposal must be submitted on the form provided by the Commission. Where a proposal has been submitted, the Commission shall decide whether to approve or reject a proposal.

- (4) When considering a proposal the Commission will decide whether to approve or reject it on the basis of the proposed tenant:

- being ordinarily resident on, or within, 32 kilometres of the croft either currently or within an acceptable period of time;
- having, or acquiring, the relevant skills to cultivate and maintain the croft or put it to some other purposeful use;
- being capable of undertaking any commitments necessary for the communal working and management of the crofting community within which the croft is located.

- (5) Where a proposal is approved and it relates to an **unregistered croft**, the re-let takes effect upon the date agreed by the landlord and new tenant and notified to the Commission (this cannot be before the date of the Commission's approval of the proposal). However, the re-let is deemed not to have taken effect unless

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<sup>1</sup> Please refer to separate Rules of Procedure on *Commission letting of a vacant croft* (section 23(5C))

an application by **the new tenant** for first registration is submitted to the Commission for forwarding to the Keeper of the Registers of Scotland within 3 months of the date of the re-letting.

- (6) Where a proposal is approved and it relates to a **registered croft** –
- (i) such approval expires at the end of 3 months, beginning with the date on which approval was given, unless an application for the registration of the re-letting of the croft is submitted by **the new tenant** to the Commission for forwarding to the Keeper of the Registers of Scotland before the expiry of that period;
  - (ii) the re-letting of the croft takes effect on the date of registration.

There is no clearly stated right to appeal the Commission decision to approve or reject the proposal(s), however this may be tested by an application being made to the Scottish Land Court.