



**CROFTING COMMISSION
COIMISEAN NA CROITEARACHD**

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Let Grazing Share(s) Application Guidance Notes

Notaichean Stiùiridh air Tagradh Leigeil Earrann(an) Ionaltraidh



Letting is the term used to describe the let of a croft, with the consent of the Commission, by a landlord or owner-occupier crofter, to a tenant.

Please note, if a croft is held in joint ownership then a croft tenancy cannot be let to one of the joint owners. A let can be of the whole croft or part of a croft, either as a separate unit or as an enlargement to another croft. If the let is as an enlargement, the croft to be enlarged must be tenanted by the proposed tenant in this letting application.

If the application is to enlarge an existing croft, then both crofts will require to be registered with the Keeper of the Registers of Scotland, prior to the Commission making a decision on the application.

An owner-occupier crofter who lets their croft to a tenant will then become the landlord of that croft – and their owner-occupier crofter status would cease to apply.

Where the croft land to be let has more than one owner, all owners must sign the application. In situations where owners hold separate title to distinct parts of a croft we recommend that you notify the other owners of your proposal to let.

Please note if the application is approved a rent, however nominally, must be charged.

1. REQUIREMENT TO REGISTER YOUR CROFT LAND

The final element of the Crofting Reform (Scotland) Act 2010 relating to the registration of croft land came into effect on 30 November 2013.

The Crofting Register is map based and provides a definitive record of the extent of, and interest in, land within crofting tenure in Scotland. In addition to showing the boundaries of land, the register contains information on the tenant, owner-occupier crofter and/or the landlord of the registered croft. The Crofting Register is maintained by the Keeper of the Registers of Scotland, although the application for registration should be made in the first instance to the Crofting Commission who will check the information contained in or accompanying the registration application against the information contained in the Commission's Register of Crofts.

If your croft is **unregistered**, the Commission will be unable to make a decision on your letting application until the croft has been registered with the Keeper of the Registers of Scotland. To avoid delays therefore, we recommend that your letting application should be accompanied by your application to register the croft on the Crofting Register. A copy of the registration form and accompanying guidance notes can be found at **www.ros.gov.uk/services/registration/crofting-register**. If an application to register is not submitted within 6 months of the date of receipt of this application, the application to let will be withdrawn from our records and returned to you.

Please note if the application is to enlarge an existing croft, both the croft forming the enlargement and the croft to be enlarged, must be registered prior to the Commission making a decision on the application.

If your croft is already registered with the Keeper of the Registers of Scotland, an application for Registration of a Subsequent Event will be required should your letting application be approved.

2. IMPORTANT INFORMATION

If the application is being submitted by anyone other than the landlord/owner-occupier crofter or their Solicitor, the form should be accompanied by written confirmation from the landlord/owner-occupier crofter that they authorise the signatory to act as their agent.

Please note that any information you provide is part of an open process and 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.

All questions must be answered as fully as possible, otherwise the form may be returned. To enable the Commission to give full consideration to your application, we would appreciate if you would provide us with as much information as possible to help us to arrive at a fully informed decision.

- **FIRST REGISTERED CROFT**

If we approve the application, the let will take effect on the date you provide in your notification form confirming that you have entered into a formal tenancy agreement with the new tenant.

Your notification must be sent to the Crofting Commission **within three months** of the date of our decision letter.

- **WHERE CROFT HAS ALREADY BEEN REGISTERED**

A) OWNER-OCCUPIER CROFTER APPLICANTS

If we approve the application, the new tenant must submit an application to register the let with the Registers of Scotland. The let will take effect on the date of registration.

The application must be sent to the Crofting Commission **within three months** of the date of our decision letter.

B) LANDLORD APPLICANTS

If we approve the application, you must submit an application to register the let with the Registers of Scotland. The let will take effect on the date of registration.

The application must be sent to the Crofting Commission **within three months** of the date of our decision letter.

3. WIDER INTERESTS

Section 58A(7)(b)-(e) or the Crofters (Scotland) Act 1993

In considering its decision on this application, the Commission must have regard to:

- (b) the interests of the estate which comprises the land to which the application relates;
- (c) the interests of the crofting community* in the locality of that land;
- (d) the sustainable development of that crofting community;
- (e) the interests of the public at large

In this section you are provided with the opportunity to make any comments on these matters which you consider the Commission should take into account when considering your application.

**Crofting community means all the persons who (either or both) occupy crofts within a township which consists of two or more crofts registered with the Crofting Commission; hold shares in a common grazing associated with that township.*

3.1 Sustainable Development

Sustainable development of a crofting community will normally include the economic social and environmental well-being of the community but meeting the sustainable development criteria need not require meeting all these strands. For instance, the agricultural aspect of crofting is not always necessarily financially sustainable, but this does not preclude it from adding value to the well-being of the individual and the surrounding community. Consideration of applications should take account of the maintenance and possible increase in populations, good management practices, the protection and enhancement of environmental assets, economic demand and employment opportunities, the protection and encouragement of biodiversity, the production of renewable energy reduction in carbon emissions, resource efficiency and the avoidance of dereliction of land. There are many criteria available when considering sustainable development although not all will be applicable to each circumstance.

3.2 Public Interest

Crofting legislation does not define 'public interest', although it contains various references to it. It is therefore for the Commission to be satisfied that, where required on a case-by-case basis, the public interest test is met.

In exercising its functions, the Commission must have regard to (a) the desirability of supporting population retention in the crofting counties and in any other designated area where crofts have been created, and (b) the impact of changes to the overall area of land held in crofting tenure to the sustainability of crofting.

In determining if, for example, approving an application is in the public interest, the Commission may consider any evidence of the benefits and disbenefits to other crofters, crofting communities, the wider community and others the Commission considers as having an interest in the

application. The Commission will also take into account the Scottish Government's crofting policies and will normally favour the wider public interest particularly where individual private interest will disadvantage the sections detailed above.

4. POLICY PLAN

In considering applications, the Commission will apply its policies on residency, land use and shared management and it will take into account the demand for crofts in the area.

To ensure that all relevant information is considered in its decision making, where a proposed tenant, subtenant or short lease holder has other croft or agricultural land available, the Commission may take account of how that land is cultivated and maintained.

5. NOTIFICATION TO THE OWNER OF THE COMMON GRAZINGS

This applies where the grazings are (a) included in the let of the tenancy and (b) the grazings are owned separately from the croft land.

You are legally required to notify the owners of the common grazings of this application. In order to confirm you have done this could you please provide one of the following:

1. A letter confirming receipt of notification from the owners of the common grazing) OR
2. Evidence of notification having been sent by registered post or recorded delivery to any owners of the common grazing.

6. PUBLIC NOTIFICATION

You must advertise your application to let the grazing share(s) in a newspaper. You are responsible for paying for the advert. Please refer to our guidelines on advertising applications on our website at www.crofting.scotland.gov.uk/forms-and-guidance Failure to follow the guidelines may result in you having to re-advertise your application in an accepted newspaper, at your own expense.

We would encourage you to contact the local Grazings Clerk/Constable to make them aware of your proposals, as experience has shown this can help establish good community relationships.

It is important that this application is sent to us before the advert appears in a newspaper.

Sample Newspaper Advert

Proposed Let of a Grazing Share

_____ (your name) is/are

applying to let the tenancy of the grazing share(s) pertaining to the croft at

_____ (croft name and parish)

to _____ (proposed tenant name)

of _____ (address)

Written comments from those with a relevant interest (which may be made public) to: Crofting Commission, Leachkin Road, Inverness IV3 8NW, info@crofting.gov.scot within 28 days from the date of the advert.

**Delete as appropriate*

PRIVACY NOTICE

The Crofting Commission acts as the 'Controller' of the personal data you provide us with when you complete a Regulatory Application. Under the Crofters (Scotland) Act 1993 we are obliged to collect this information in order to facilitate the processing of your application. Please note that the Commission will be unable to process your application if you do not provide the information requested.

Any data provided by you is part of an open process and may be made available to other parties involved (unless told otherwise). These could include:

- The tenant / owner-occupier crofter / landlord of a vacant croft
- The proposed tenant/sub-tenant
- The landlord of the croft
- The owner of the common grazings
- The area assessor
- The grazings committee
- The owner of any adjacent non-croft land
- The occupier of any adjacent non-croft land
- Any member of the local crofting community
- Any other person with a significant interest
- Third Party Organisations – *RPID (Rural Payments & Inspections Directorate) and the Registers of Scotland.*

Your data will be used to update the Register of Crofts and it may also be released under a Freedom of Information enquiry, subject to any disclosure exemptions under Data Protection Laws.

Your information will be stored in the format received and electronically in the Commission's Crofting Information System (CIS). We will not keep your personal data for any longer than is necessary to complete the relevant processing and in line with our Retention Policy.

If at any point you believe the data we process on you is not accurate, you can request to see it and have it corrected or deleted. If you wish to raise a complaint about how we have handled your personal data, you can contact our Data Protection Officer who will investigate the matter. Our Data Protection Officer can be contacted by e-mailing DataProtection@crofting.gov.scot addressing it – *For the Attention of the Data Protection Officer*. Further details on the Crofting Commission's Data Protection Policy can be found at www.crofting.scotland.gov.uk/data-protection-act.

For information on submitting a complaint to the Crofting Commission, please visit our website at www.crofting.scotland.gov.uk/complaints. For details of how to complain to the Information Commissioner, please visit www.ico.org.uk.



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