

PUBLIC NOTIFICATION

There are a number of provisions in The Crofters (Scotland) Act 1993 where public notification is required to be made by either an applicant or the Crofting Commission.

1. LAW

Crofters (Scotland) Act 55A: **Public notification**

*For the purposes of this Act, public notification shall be given by publishing or causing to be published a notice in appropriate form in one or more **newspapers** circulating in the district in which the croft, or as the case may be, common grazing to which the application relates is situated... **section 55(A)(1)***

*A notice is in appropriate form if its form and content comply, or do so as far as is reasonably practicable, with the form and content specified by the Commission for a an application of that type... **section 55A(2)(a)***

1.1 PUBLIC NOTIFICATION BY APPLICANTS

There are a number of provisions within the Act which require an applicant to give public notification of their application:

1.1.2 Schemes for Development

The landlord (or owner) or any person acting with the consent of the landlord (or owner) must give public notification of their application to the Land Court for land to be developed... **section 19A(6)**

1.1.3 Obtaining the Commission's Consent or Approval

Any person making an application for the consent or approval of the Commission must **forthwith** give public notification of it... **section 58A(3)(a)**

Applications where the Commission require an applicant to advertise their application:

1.1.4 Apportionment (section 52(4))

1.2 PUBLIC NOTIFICATION BY THE CROFTING COMMISSION

1.2.1 Applications

There are a number of provisions within the Act which require the Crofting Commission (rather than the applicant) to give public notification of an application. These are:

Any application by the owner of non-croft land under section 3A(1) or the tenant of an agricultural holding under section 3A(2) to constitute the land or holding as a croft... **section 3A(5);**

Any application to decroft, (except an application made in respect of a part of a croft consisting only of the site of the dwelling house on or pertaining to the croft or only of the land the conveyance in feu of which was granted under section 17 or 18 of the 1955 Act)...**section 25(6)**

Any application to constitute non-croft land as a common grazings...**section 51A(2)**

1.2.2 Determinations

There are a number of provisions within the Act which require the Crofting Commission to give public notification of their decision or determination. These are:

Whether non-croft land or a holding has been constituted as a croft...**section 3A(7)(b);**

Notification of a decrofting direction specifying the nature of and reasons for the direction and, as the case may be, for any conditions imposed in the direction...**section 25(7)(b);**

Notification of a further direction in relation to a decrofting direction or modification of a condition in a direction...**section 25(7A)(b);**

Whether non-croft land has been constituted as common grazings...**section 51A(3)(b);**

1.2.3 Others

Inviting applications for a tenancy where the Commission has taken on the process of letting a vacant croft...**section 23(5B);**

Inviting applications for a tenancy where the Commission has taken on the process of letting an owner-occupied croft...**section 26J(7).**

1.2.4 Consultation

Although there is no legislative requirement to do so, the Commission give public notification of its intention to require letting proposals from an owner occupier crofter...**section 26J(1)**

2 POLICY

“Forthwith”: The act does not define “forthwith”. The Commission has adopted the general dictionary definitions as meaning “immediately” and “without delay”.

“Newspaper”: The act does not define “newspaper”. The Commission has adopted the following policy definition in relation to “newspaper”. A daily or weekly publication composed of folded sheets containing news, advertisements, topical articles, correspondence etc. circulating in the local area. The Commission may accept adverts in fortnightly newspapers. However, for this to happen, consent would have to be given in advance by the Commissioner for that area on a case by case basis. This allows the Commissioner to be satisfied that the publication meets the criteria and is circulating in the local area¹.

¹ A list of acceptable publications can be found on the Commission’s website www.crofting.scotland.gov.uk (see ‘Guidance on advertising applications’ in the ‘Forms and Guidance’ section)

3 PROCEDURE

Where an applicant is required to provide public notification of their regulatory application to obtain the Commission's approval or consent, the Commission will:

- Require the applicant to set out in the application form the name of the newspaper used and the date the advert will appear; and
- Will check the newspaper to ensure that the advert has been included and is compliant with the form and consent specified by the Commission.

Failure to either ensure the regulatory application is public notified in a relevant newspaper or, if so advertised, failure to ensure that its form and content comply with that specified by the Commission will result in the application being considered invalid and returned.