

DEEMED CROFTS

What is a “deemed” croft?

When a crofter purchases his/her croft land and the grazings shares pertaining to that croft remain held in tenancy they are “deemed” to be a separate and distinct croft in their own right. As such these “deemed crofts” are given an individual entry in the Commission’s Register of Crofts (ROC).

Details of the full ruling of the Scottish Land Court dated 3 Aug 2012 can be found on their website www.scottish-land-court.org.uk/decisions/recent-decisions

SLC Reference Number
SLC/121/11.

When was this implemented?

To make sure there was no doubt on this issue the Commission put the question before the Scottish Land Court (SLC) in 2012 who confirmed in their ruling that the grazing shares do not remain part of the croft but are “deemed” to be a tenanted croft in their own right.

It may seem odd for a right to graze in a common grazings to be deemed to be a croft. It is however important to understand that it is deemed to be a croft only for the purposes of the Crofters (Scotland) Act 1993 and to ensure that the right is still subject to crofting controls and regulations.

The Crofting Commission, as it is required to by crofting legislation, has separated owned crofts and deemed tenanted crofts (grazings shares and, where appropriate, apportionments) in the Register of Crofts with the deemed crofts having their own separate entry as a croft and their own unique register number.

What are the practicalities of being the tenant of a deemed croft?

The practicalities of having a deemed croft has little implication for crofters in that the grazings shares remain active. However, when it does become important is with the sale or transfer of a croft and croft succession on the death of a crofter (see over the page).

What happens if I have to register my croft with Registers of Scotland?

Where the croft has to be registered in Registers of Scotland’s Crofting Register, the deemed croft will have to be registered separately.

Does this affect the Crofting census form I have to complete?

This is the reason why many owner-occupier crofters will receive several Crofting Census forms to complete and return to the Commission for both their croft and for their grazings share (deemed croft).



You can find more information on our website:

www.crofting.scotland.gov.uk

Important:

If you sell your croft land and want to transfer the common grazings shares and/or an apportionment, which are deemed to be a croft in their own right, you must make an application to the Commission for consent to assign that “deemed croft.”

How does this affect Croft succession?

The other situation where deemed crofts can cause practical problems is in connection with the transfer of crofting interests on death. It should be identified as soon as reasonably possible whether the crofting interests of the deceased crofter include a deemed croft. Where the deceased crofter purchased his or her croft, any right to graze or apportionment that was not included in the purchase will be a deemed croft, and will be deemed to be held in tenancy.

The Commission can give no advice on the validity of any bequest made by the deceased crofter. See our Factsheet on Succession for more information. www.crofting.scotland.gov.uk/testate-succession

What if I want to sell or transfer the croft?

When an owner-occupier crofter sells or transfers his or her croft, only the owner-occupied croft land will transfer to the new owner.

The deemed croft (whether it is a right to graze or an apportionment) which is deemed to be held in tenancy can only be transferred by making an application to the Commission to assign that tenancy. Similarly, any let or short lease of the owner-occupied croft will not include the deemed croft.

It is not uncommon for a deemed croft comprising a right to graze in a common grazings to be forgotten about in the sale of a croft, with obvious consequences for purchasers who understand that the purchase will include the right to graze in the common grazings.