



**CROFTING COMMISSION
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CROFTING COMMISSION

POLICY PLAN 2022

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Table of Contents

Crofting Commission – Our Vision 1

Policy principles 3

 Benefits of a regulated crofting system 3

 Crofting and the public interest 4

 Policy on promoting the interests of crofting and collaborating with others 4

 Policy on croft re-organisation 5

 Policy on levels of service 5

 Policy on registration and mapping of crofts and common grazings 5

 Policies on decrofting and retaining land within crofting tenure 6

 Policy on croft residency and use of crofts 6

 Consent to be absent 7

 Policy on new entrants, tenancy termination and compulsory letting 7

 Policy on land use 8

 Policy on apportionments 8

 Policy on crofting development and support 9

Crofting Development and New Crofts 10

 Policy on grazings 10

 Policy on subletting and short-term leases 10

 Policy on applications for consent or approval – subletting, assignation and letting 11

 Policy on planning 11

 Policy on law reform 11

 Policy on access to croft land 12

 Policy on division 12

 Policy on resumption applications and schemes for development 12

CROFTING COMMISSION – OUR VISION

1. The Crofting Commission is an executive, non-departmental, public body which has a legal identity that is distinct from Government, but carries out administrative, regulatory and development functions relating to crofting on behalf of the Scottish Government. The Crofting Commission provides specialist advice on crofting to Scottish Ministers and keeps Ministers advised on matters relating to crofts and crofting. The Crofting Commission operates within a framework set by the Scottish Ministers and develops its own policies within that context. The powers and responsibilities of the Crofting Commission are set out in legislation, the Commission has the power to regulate only on matters that are specifically provided for in legislation.
2. The Commission's vision for crofting is one that balances tradition and innovation. The Commission regulates crofting in a way that balances the rights of existing crofters¹, the interests of crofting communities and the aspirations of individuals who may wish to take up crofting. The Commission recognises the importance of having diversity amongst crofters and new entrants to crofting, as well as the importance of encouraging a diverse range of land uses that encompasses local food production, stewardship of the land to enhance biodiversity and sequester carbon, community enterprise and local economic activity. Crofters like many other land managers and users, will be affected by climate change and the increasing loss of biodiversity, however, crofting could offer some solutions to increase carbon sequestration and enhance biodiversity. The Commission recognises that crofts and common grazings comprise some of the most remote parts of Scotland; which is some of the most challenging land to cultivate. It is the Commission's view that the diversity of land types within crofting tenure also presents opportunities to use the land in different ways, which combine innovation and tradition.
3. It is the Commission's view that crofting can contribute to the retention of rural populations and help to sustain rural economies, it can also deliver substantial wider environmental benefits where the land is managed sustainably. Crofting provides important opportunities for both individual and communal land management. It is the Commission's view that a well-regulated crofting system is central to rural life, the rural economy, and the rural environment, across large parts of the Scottish Highlands and Islands. The Commission recognises the substantial challenges that climate change, loss of biodiversity and erosion (including coastal erosion) pose to croft land and common grazings, and that these risks that will become more rather than less severe over time.
4. Crofting legislation transformed land tenure within the Highlands and Islands in the 1880s by giving rights to crofters, who until then, had been vulnerable to removal from their holdings by their landlord. The Crofters Holdings (Scotland) Act 1886 provided crofters with substantial security of tenure and a right to a fair rent. Although the challenges to crofting in 2022 are very different from the land struggles of the 1880s, crofting remains a system of land tenure that provides crofters with important rights and responsibilities with regard to the land they croft. The role of the Crofting Commission, as the regulator, is to oversee and balance the interests and longer-term future of the wider crofting community and the interests of individual crofters.

¹ Throughout this Policy Plan, 'crofters' includes both tenant crofters and owner-occupier crofters, unless the context implies otherwise.

5. In essence, crofting legislation provides protection for both the crofter and also for the croft, and its associated pertinent, as an integral unit within the crofting system as a whole. The 2010 Act underlines the importance of regulation of all crofts, whether tenanted or owner-occupied, for the benefit of crofting.
6. The Commission recognises the importance of the Gaelic language within many crofting communities. The Commission believes that fair regulation of crofting, in the interests of the wider crofting community, will help these communities to continue to use the Gaelic language. The Commission is required to have a Gaelic-speaking Commissioner and will endeavour to ensure that it has at least one, and preferably more, members of staff who are fluent in the Gaelic language.
7. In accordance with this vision, the Crofting Commission will adopt the following policy principles as it seeks to play its role within the provisions of legislation and in fulfilment of the Scottish Government's policy for crofting.

POLICY PRINCIPLES

Benefits of a regulated crofting system

8. The Scottish Government has set out its vision for crofting policy in its National Development Plan for Crofting. As well as delivering continuous improvement and efficiency to Commission processes (see below), the Commission will be responsive to crofters and the needs of crofting communities. A well-regulated system:
 - Contributes to strong, resilient, and supportive crofting communities, where people take responsibility for their own decisions regarding land management and how this affects others.
 - Encourages the conservation of the natural environment and enhancement of biodiversity, as well as distinctive crofting landscapes, where crofters and crofting communities are stewards who will sustain these benefits for future generations, with regard, where appropriate, to the Nature Conservation (Scotland) Act 2004.
 - Contributes to Government targets for reducing carbon emissions.
 - Contributes to sustaining traditional crofting knowledge over generations and sharing knowledge and information about managing the land in different ways.
 - Underpins a small-scale rural business and land tenure system that supports the sustainable use of croft land and land subject to common grazing rights, and prevents large scale amalgamation of landholdings, such as happened outwith the crofting counties.
 - Ensures that crofters reside on or close to their crofts and so assists population retention within the crofting counties and designated crofting areas, with the associated social and economic impact of a working, rural population for the provision of community services, such as healthcare and schools.
 - Retains crofts within the crofting system in order that these are available to existing crofters and new entrants to crofting, and so supporting population retention and economic activity within the Highlands and Islands.
 - Takes action against crofters who do not use their crofts (whether for cultivation or purposeful use, including conservation) in order to reduce the amount of neglected land, and also against crofters who do not reside on or within 32km of their croft.
 - Provides opportunities for local food production and a range of other land uses.
9. The Commission also has an important role in regulating land subject to common grazing rights. The benefits of effective regulation of common land include:
 - Encouraging the benefits derived from shared management of common grazings.
 - Strengthening crofting townships and connections between crofters and encouraging best practices on common grazings.
 - Encouraging management of common assets.
 - Supporting crofters who wish to engage in crofter forestry and woodland creation projects and making decisions where crofters wish to use a common land for purposes other than grazing, such as affordable housing.
10. In order to achieve these benefits, it is the policy of the Commission to regulate fairly, consistently and efficiently.

Crofting and the public interest

11. The Crofting Commission recognises that the public has an interest in a regulated crofting system and recognise that public money funds both the regulation and support of the system.
12. In terms of the legislation applying to crofting, the Commission must consider the public interest when giving consents and approvals, and when consenting to the creation of new crofts and common grazings. Legislation also provides that any “purposeful use” of a croft, which is a use that is not cultivation, must not adversely affect the public interest. When considering whether to remove land from crofting tenure by decrofting, the Commission must assess whether it is in the public interest to do so.
13. The Commission’s policy in this area is that it recognises the public interest in:
 - Sustaining a healthy rural land-based population within crofting areas.
 - Encouraging local food production on croft land and common grazings.
 - Creating opportunities for new entrants to crofting from diverse backgrounds.
 - Halting the loss of biodiversity and nature-rich habitats on croft land and common grazings.
 - Reducing emissions from croft land and common grazings and so contributing to national net zero targets.
 - Developing new ways of using croft land sustainably.
 - Strengthening local rural economies that are underpinned by the local crofting community.
 - Retaining land within crofting tenure for future generations of crofters.
14. When assessing applications, which involve an assessment of the public interest, the Commission will pay cognisance to the above matters.
15. As a statutory regulator, it is the role of the Commission to balance the public interest against other interests, such as those of the estate and the crofting community in the locality.

Policy on promoting the interests of crofting and collaborating with others

16. The Commission recognises that it has a particular responsibility to promote the interests of crofting and believes that this can be achieved in a variety of ways. The Commission will work with partners and stakeholders, such as Highlands & Islands Enterprise (HIE), local authorities and others involved with the sustainable development of crofting. Through such collaboration, the Commission can:
 - Raise awareness of the benefits of crofting and the crofting system.
 - Promote the concept that crofting must be both properly regulated as well as supported and developed to deliver the widest range of benefits economically and environmentally.
 - Promote successful working relationships between crofters and landlords and, where appropriate, work with community landlords, public landlords and private landlords to promote the interests of crofting.
 - Seek to influence a planning authority’s Local Development Plans in a way that is beneficial for the crofting system and seeks to protect crofting from development that is damaging to crofting interests.
 - Strengthen its own effectiveness.
17. The Commission will keep crofting matters under review and advise the Scottish Ministers on crofting matters and conditions.

Policy on croft re-organisation

18. The Commission has the statutory power to re-organise crofting townships. The Commission recognises that reorganisation schemes are resource intensive and are usually appropriate only where there is a large degree of agreement within the crofting township as to how it should be re-organised. In cases where there is a real need for re-organisation and a high degree of consensus, within the relevant crofting community, the Commission's policy is to consider carrying out a re-organisation scheme subject to having sufficient resources to do so.

Policy on levels of service

19. By far the largest of the Commission's teams is the casework team, responsible for processing applications by crofters and their agents, for consent, for example, to assign or sublet a croft and for statutory decrofting.
20. The casework officers are also responsible for responding to and recording notifications by crofters and their agents and executors for changes to the Register of Crofts such as in connection with transfers of croft tenancies, under testate and intestate succession, and changes to ownership. It should be noted that, however, the Commission takes no decisions in respect of such notifications.
21. The Commission is committed to ensuring that decisions on all applications are in accordance with the legislation and fair to all parties. In addition, the Commission aspires to significantly improve the speed of processing for both applications and notifications, both by increasing the number of staff responding to casework and by improving the processes by which applications are handled. For example, the delegation of routine decision making to officials, and more recently the development of an online application system, are both substantial enhancements to the efficiency of our work.
22. The Crofting Commission is committed to continual improvement of levels of service to applicants who have an application in progress and to those seeking information. Commission processes can appear to be complex, however, the Commission will seek to provide helpful and accessible information from a range of sources.

Policy on registration and mapping of crofts and common grazings

23. The Commission's role in registration of crofts is set out in statute, it is essentially a supportive role. The principal responsibilities for registering crofts lie with crofters, their neighbours, who are informed of proposed registrations and have a right to object, and the Registers of Scotland (RoS). The Commission has limited powers to influence this process, but does check proposed croft maps against such information as is held by the Commission, the process of a registration can be delayed if there is evidence of an inaccuracy. The Commission is also required to check information in the registration application and supporting documentation against the information relating to the croft in the Register of Crofts, and to seek further information in order to resolve any discrepancies prior to forwarding the registration application to RoS. However, the Commission is not empowered, and nor has the means, to make sure that all croft maps are 'correct'.
24. The legislation gives the Crofting Commission a role in the registration of common grazings and aspires to continue the process of mapping and registering common grazings when priorities and resources permit.

Policies on decrofting and retaining land within crofting tenure

25. The legislation and a body of case law, developed by the Scottish Land Court, sets out the basis on which the Crofting Commission can consider granting a decrofting direction. The Commission is required to assess each reasonable purpose application against the following legislative factors: the good of the croft, the crofting community, the estate (where relevant) and the public interest, and must be satisfied that the extent applied for is not excessive. The legislation also sets out additional factors to which the Commission may have regard, including the sustainability of crofting and the crofting community in the locality, the landscape and environment of the locality, and the social and cultural benefits associated with crofting. The Commission cannot adopt any policies with regard to decrofting that are inconsistent with the legislation and case law. There are statutory factors to which the Commission must have regard in each application for decrofting. The Commission is also required to carry out a careful balancing exercise and assess the individual facts of the case in relation to the various factors set out in the legislation.
26. The Commission's approach to decrofting is that its decisions with regard to decrofting applications are determined by the legislation having regard to the individual facts of the case, but will be informed by the Commission's policy position that there is value in retaining croft land within crofting tenure. The Commission's policy position in this regard is informed by the importance of providing opportunities for both existing crofters and future generations of crofters to continue crofting croft land. It is also likely that actively used croft land will continue to attract financial assistance in future years, for the various social, economic and environmental benefits associated with crofting, and such assistance will be important for the future of crofting.
27. The Commission aims to protect land from being removed from crofting tenure. A decrofting direction irrevocably removes the land subject to the application from crofting tenure. The Commission takes a long-term view when determining decrofting applications and will exercise its discretion to consider, amongst other factors, the advantages of retaining the croft (or part thereof) as part of the pool of croft land in the locality. It is also the Commission's policy that it will not normally decroft any grazings share held by an applicant as part of his or her tenancy or which the applicant has included in a disposition.

Policy on croft residency and use of crofts

28. The Crofting Commission will work by both statutory and non-statutory means to increase croft residency and to increase the amount of croft land that is cultivated or put to a purposeful use. The Commission's policies on residency and land use apply equally to tenant crofters and owner-occupier crofters. It is the Commission's view that a healthy crofting system consists of crofters who are resident within their crofting communities and are actively using and managing their crofts and common grazings. It is the Commission's view that resident crofters, within the crofting community, will make these communities more resilient and better able to retain rural population, as well as create and generate economic activity within rural, and sometimes remote, populations.
29. The Commission recognises that much croft land or common grazing land is currently neglected because some crofters are failing to comply with their crofting duties. The Commission acknowledges that non-residency and neglect have the potential to undermine the credibility of the crofting system. The policy of the Crofting Commission from 2014, has been to encourage greater voluntary compliance with crofting duties. The development team will reinforce this concept by raising awareness of the duties requirements and the negative impacts on communities and croft land through non residency and underuse of the land. The current policy of the Commission is that this work will continue over the next five years, but Commission policy will also recognise the need for crofting duties enforcement action on non-residency and failure to use the land. Although the Commission's crofting duties enforcement team is small in comparison to the size of the task, the Commission has

recently invested additional resources in it, and our policy is to invest further in crofting duties enforcement over the next five years. The Commission will take targeted action on crofting duties enforcement to increase croft residency and active land use. Some of this action will be as a result of reports or information received from grazings committees, assessors and members of the relevant crofting community. The Commission relies upon receiving information from these persons before it is able to investigate a case of potential non-compliance with a crofting duty or duties. Some of the duty enforcement action will be taken where the Commission is aware of potential non-compliance with crofting duties, for instance as a result of an annual notice return or a failure to return the annual notice.

30. The Crofting Commission has the right to inspect croft land, or employ a partner agency to do this, as part of gathering evidence about the use to which a croft is being put.
31. The Commission will also work with landlords to ensure that vacant crofts are let to individuals who will comply with the statutory duties relating to residence and land use. Where the landlord of a vacant croft fails to submit a letting application or a proposal to let the croft, the Commission will take on the process of advertising and letting the vacant croft.
32. The Commission will promote the concept of “living succession” as a measure to reduce the number of intestate situations and unresolved successions.
33. The Commission will seek to ensure that long-standing unresolved successions are resolved in the first instance by the executor of the deceased crofter or the landlord, but failing that, the Commission may use its statutory powers to terminate the tenancy and declare the croft vacant, to enable the tenancy to be let to an individual who will comply with the statutory duties relating to residence and land use.

Consent to be absent

34. When considering applications by crofters for consent to be absent, the Commission recognises that there can be legitimate reasons why a crofter is unable to be ordinarily resident on a croft for a period of time. The Commission would have to be satisfied that there is a good reason to be absent, and the period of time approved for any absence would depend on the circumstances of the individual application. The Commission will need to be satisfied that the other crofting duties (besides the residency duty) will be complied with for the duration of the consent to be absent. The Commission’s policy here is that it will balance the interests of the individual crofter who is applying for consent to be absent with the interests of the wider crofting community and the desirability of retaining an active population within remote rural communities and crofting communities where most of the crofters reside on or close to their crofts (and not more than 32 kilometres away from them). It may also consider the contribution that the absent crofter makes to his or her crofting community, albeit that the crofter is unable, for a good reason, not to live on or close to the croft.

Policy on new entrants, tenancy termination and compulsory letting

35. Aligned to the Commission’s work on crofting duties, is the Commission’s policy that crofting and the crofting system should create new opportunities for people who wish to become crofters or owner-occupier crofters for the first time. The Commission’s view is that crofting should be an open system. It is the policy of the Commission that crofting should be an inclusive system that includes people regardless of their background, sex, disability, sexual orientation, age or ethnicity. The Commission’s policy in this area will be similar to its policy on crofting duties, and it will encourage voluntary action, whilst also not hesitating to use its statutory powers. The Commission’s development team will work to encourage non-resident and/or non-active crofters to assign or sell their crofts to someone who will be resident and will use the croft.

36. At the same time, the Commission's crofting duties enforcement team will take targeted action (as set out above at paragraph 29) to work with non-resident and/or non-active crofters and require them, in cases of non-compliance, to take steps to ensure that they are compliant with crofting duties. If the crofter is unable to take steps to ensure compliance with the relevant crofting duty or duties, the Commission will proceed to terminate the crofter's tenancy or require the owner-occupier crofter to let the croft, unless there is a good reason not to. Such action will result in new croft tenancies becoming available for letting to new entrants to crofting, as well as to existing crofters. Such action also results in the owner-occupier crofter losing his or her owner-occupier status and his or her crofting rights.

Policy on land use

37. The legislation enables crofters to carry out many different forms of cultivation, which includes livestock production, as well as the growing of vegetables, fruits, keeping of bees and planting of trees. The legislation also permits crofters to carry out purposeful uses which are not cultivation (provided in the case of tenant crofters that they have the consent of their landlord). These uses could include, for example, the use of part of a croft for holiday-letting accommodation, renewable energy projects or a local bakery or farm shop or a facility associated with a leisure activity. The whole the croft must be used for either the purposeful use or cultivation or a mixture of the two. Decisions as to how the land will be used lie with the crofter or, in the case of common grazings, the grazings committees and the crofters sharing in the common grazing. subject to applying for any statutory approvals (such as section 50B of the Crofters (Scotland) Act 1993).
38. It is the Commission's policy to work through its development team with crofters and crofting communities to encourage a diverse range of land uses, which can deliver social, economic and environmental benefits within local crofting communities and populations, but decisions as to how the land will be used, lie with the crofter (or, in the case of common grazings, the grazings committees and the crofters sharing in the common grazing). Legislation also permits crofters to create new woodland and to enable regeneration of existing woodland, either by themselves or by way of a joint venture with their landlord.

Policy on apportionments

39. The legislation and case law from the Scottish Land Court set out the basis on which the Commission considers apportioning an area of common grazing for the exclusive use of a crofter or township. In assessing apportionment applications, the Commission will consider the application on its merits and exercise its discretion to balance the interests of the applicant in having the land apportioned and the interests of the shareholders in the common grazings, and will consider any comments from the grazings committee as part of its statutory consultation, as well as any comments from shareholders and the landlord/ owner of the common grazings.

40. The Commission recognises that there can be differing views around issues to do with the value of land, and that the value of land cannot be measured solely from an agricultural point of view. However, the Commission has no specialist skills in land valuation and will not approach apportionment applications from the basis of a land valuation. Where the land sought to be apportioned is considered to have “hope value” and there is a reasonable prospect of development, such “hope value” is a relevant consideration and the Commission will decide how much weight to give to such a consideration having regard to all the facts of the case. The Commission could decide, for example, to apportion land where there is an element of “hope value”, but decide to make the apportionment order subject to review at fixed intervals or for a fixed period time. It is the Commission’s view that where a development takes place on a common grazings involving the landlord and third parties, all the shareholders, should in principle, share in terms of their souming rights in the value of any land that is resumed or subject to a scheme for development. This will be a factor among others in deciding whether or not to apportion land.
41. When apportioning land, the options available to the Commission include apportioning for a set period of time and/or subject to review at fixed intervals. Where the Commission decides that it is appropriate to apportion land subject to review at fixed intervals, its policy in most cases is to have a review every ten and twenty years. It will however take account of the circumstances of each application. The Commission’s underlying policy in this area is that where the crofter has ceased to use the apportionment or is not utilising it as intended, or where there are concerns about the use of the apportionment, the possibility of restoring the crofters’ common grazing rights over the land should be considered.
42. The Commission will publish more detailed guidance to applicants of apportionments, which will be available on its website, but will not form part of this Policy Plan. This guidance will set out the factors which an applicant should consider if he or she wishes to maximise the likelihood that the application will be approved. All applications will however be assessed on their merits and having regard to the relevant facts and circumstances.

Policy on crofting development and support

43. Developing crofting is a key element of Commission activity which will underpin many of the other aspects of the Commission’s remit.
44. Downward pressure on profitability of agricultural activity means action is required to ensure crofters are aware of, and enabled to benefit from, financial returns of alternative opportunities utilising their available assets, land and people. The Commission will develop a network of support for crofters and grazings committees identifying sources of financial support and technical guidance. This will be made available on the Commission website by the Commission’s development officers. The officers will also link with named staff in the organisations and agencies providing support and with the panel of assessors and grazings committees, to promote opportunities for development.
45. A programme of education to ensure all crofters are aware of their rights, opportunities, obligations and liabilities will be instigated and delivered through the network described previously.
46. To assist crofters with the above, information will be provided by way of regular reminders and presentation of options through the network and website keeping crofters informed as their circumstances change.
47. Notably the Commission is aware of the increasing numbers of ageing crofters and will provide specific information on their options for dealing with succession regarding crofting assets.

48. The Commission is also aware of the pressures and difficulties some crofters have as tenants and owner occupiers in complying with their duties and will provide guidance on options to address these matters. Aspects of community-based working, along with temporary or permanent transfer of duties responsibility, will be highlighted.
49. The Commission will consult and advise Scottish Government and other organisations to ensure their support systems are adapted where necessary to suit individual crofters and grazings committees.
50. The Commission will consider and advise on the possibility of introducing a Croft Availability Network to assist new entrants into crofting and existing crofters to leave.
51. All the development work of the Commission will include consideration of environmental and climate impacts.

Crofting Development and New Crofts

52. The Commission has no statutory power to create new crofts in the absence of an application from the owner of land. The Commission will, where appropriate, work with landowners and others who might wish to create new crofts and promote the creation of suitable new crofts. Where the creation of a new croft is in the public interest and the interests of the local crofting community, and where the creation of a new croft could bring social and economic benefits, the Commission will look favourably on such applications. Although a matter for the Scottish Ministers, the Commission would, in principle, support the extension of the designated areas, in order that crofts could be created more widely across Scotland.
53. It is also the Commission's policy to collaborate with other agencies and bodies and crofters, so far as its resources permit, to encourage sustainable land uses, which enhance biodiversity and increase carbon sequestration (for instance, through restoration of peat land). Crofting affects approximately three-quarters of a million hectares of land across the Scottish Highlands & Islands.

Policy on grazings

54. The Commission recognises the significant role played by the voluntary Grazings Committees and the scale of the crofting asset held under common grazing and will seek to increase the number of committees in office. Through these committees the Commission will encourage greater utilisation of the land and opportunities it presents, particularly around climate change mitigation.
55. The Commission recognises the importance of having up to date and meaningful regulations and records and will encourage Clerks, Committees, and shareholders to review their existing documents. Advice and information will be made available on the Commission's website and through the Grazings and Development network.
56. The Commission will continue to provide training for committees and their clerks in the effective regulation and financial administration of the common grazings.

Policy on subletting and short-term leases

57. Although the Commission will consider every subletting or short lease application on its merits, the Commission generally sees subletting or short-term leases as a shorter-term and interim measure, rather than a longer-term solution, to a situation where a crofter or owner-occupier crofter is unable, for an indeterminate period of time, to be ordinarily resident and/or cultivate the croft or put it to a purposeful use. Crofters and owner-occupier crofters should not see subletting or short leases as a long-term solution to non-residency or a failure to use their crofts.

Policy on applications for consent or approval – subletting, assignation and letting

58. Where an application is made for consent to sublet, assign or let a croft, the Commission will not consider only the suitability of the proposed subtenant, assignee or tenant as the case may be. The Commission will give full consideration to the 'bigger picture' and must apply subparagraphs (b) to (e) of section 58A(7) of the 1993 Act. This includes, but is not limited to, the interests of the crofting community and its sustainable development, and could include an assessment of what else might be done with the crofts and who else could be the tenant of the croft. The Commission will also consider any such application on its individual merits. Whilst it has no power to direct any tenant or landlord to apply for consent to sublet, assign or let a croft to any particular individual, an applicant tenant cannot assume that his or her choice of subtenant, assignee or tenant will be accepted, even if the proposed subtenant, assignee or tenant would appear to meet the residency and land use duties.

Policy on planning

59. As a statutory consultee, the Crofting Commission has a right to be consulted on Planning Authorities' draft Local Development Plans, and on individual planning applications on land subject to crofting tenure. The Crofting Commission regularly make comments on Local Development Plans, representing the interests of the crofting communities in general terms and will work with Planning Authorities to acquire a mutual understanding of the needs of rural communities.
60. Conversely, the Crofting Commission will not often 'take sides' in relation to an individual planning application, preferring to leave the representations to the parties directly involved, and the decision to the Planning Authority. This seems more appropriate, given that the Commission has a statutory regulatory role, and may indeed need to take an independent decision on a related decrofting application. However, as resources permit, the Commission will sometimes guide Planning Authorities on how to weigh up any crofting-related issues that are at the heart of a contested planning application.
61. That guidance will be based on the issues such as:
- Location of any development site within a croft.
 - Impact of the proposed development.
 - Impact of any proposed access to the proposed development on the croft.
 - The operational need for the proposed development.
62. In most cases, the Commission's comments will be that any proposed development is sited to use the least possible amount of productive inbye land.

Policy on law reform

63. It is the Commission's view that the existing legislation applying to crofting brings many benefits and statutory protections for crofters, owner-occupier crofters, crofting communities and the wider public. However, there is a generally held view that the existing legislation needs to be updated, in some respects urgently, and various anomalies need to be removed from the legislation. To this end, it is the Commission's policy to collaborate with its sponsor division within Scottish Government, and with stakeholders, to assist with law reform and legislative proposals and to keep its sponsor division properly advised on crofting matters, including legal matters relating to crofts and crofting. The Commission would like to see future legislation assisting the further development and growth of crofting and will assist the Scottish Government in assessing whether the Commission requires enhanced legal powers to assist with this.

Policy on access to croft land

64. When considering applications that could result in croft land becoming separated from the nearest adopted public road, from which access can reasonably be taken, the Commission will wish to ensure that the croft land or, as the case may be common grazings, can be accessed directly from the public road by agricultural vehicles or other machinery required for the cultivation and maintenance of the croft or in connection with the common grazings. The Commission will scrutinise applications where it is proposed that an existing access from the public road will no longer be available to croft land or common grazings or where a new access is proposed from a public road that may not be suitable. Applications should ensure that any consent or approval sought would not result in croft land or common grazings being cut off from a public road. Failure to do so is likely to result in an application being refused.

Policy on division

65. It is the Commission's policy to not generally allow the fragmentation of croft holdings into smaller units, where such fragmentation would result in a holding of a size that would be unlikely to attract financial assistance, grant or subsidy (where the original holding would be of a size that it could attract such support). Reference should be made to the relevant rules on eligibility for financial assistance and the minimum amount of land required for a crofter or farmer to be eligible to apply for subsidy. The Commission recognises that fragmentation of crofts can result in holdings that are of insufficient size to afford any incoming croft tenant with a range of realistic options as to how to use the land. It is the Commission's policy to prevent this from happening.

Policy on resumption applications and schemes for development

66. The Scottish Land Court has responsibility for dealing with resumption and scheme for development applications, but the Crofting Commission is entitled to object to, or support, such an application. The policy of the Commission is that it will consider raising an objection to such applications where, for instance, it considers that the area applied for is unreasonable in relation to the proposed purpose or where it considers that it is unnecessary to remove the area of land applied for, or part of it, from crofting tenure.