



CROFTING COMMISSION
COIMISEAN NA CROITEARACHD

Succession Information Pack



Contents

Succession in Crofting	4
The benefits of an active croft in the local area	5
How to pass on your croft during your lifetime	6
As a tenant crofter you can apply to assign your croft	6
As an owner-occupier crofter you can transfer the land ownership using a solicitor	6
Things to consider in the succession of your croft	7
Your Successor	7
House on the Croft	7
Croft Division	8
Croft Registration	8
Power of Attorney	8
Do you want to apply to Sublet your Croft?	8
Do you want to apply for someone to have a Short Term Let of the Croft?	8
Planning for your croft in your Will	9
Key Points of Croft Wills	9
Intestate Croft Succession	9
Further Sources of Information	10
Crofting Commission Website	10
Your Landlord	10
Farm Advisory Service Funding	10
Scottish Land Matching Service	10
Scotland's Citizens Advice	10
Royal Scottish Agricultural Benevolent Institution (RSABI)	10
Law Society of Scotland	10

Succession in Crofting

Succession is the process by which someone passes on an asset (croft) either during their lifetime or in their Will. When it comes to crofting, succession is very important, and it is a good idea to have given it some thought, regardless of your current situation or age.

Crofting plays a vital role in the Highlands and Islands. Crofts are in great demand, and so crofts which are not being used are a lost opportunity. The longer that a croft is not being worked, the land, the fencing, buildings and drainage will deteriorate. This will make it more difficult and expensive for the next crofter to bring the croft back into use.

When the time comes that you no longer use your croft, choosing to pass it on during your lifetime (living succession) has several to you and your successor(s).

Benefits of Living Succession

- Your wishes are clear and can be carried out during your lifetime
- The croft is passed on in the best possible condition for the new crofter so it can remain active
- It avoids the prospect of intestate succession (see further information below)
- You will have the opportunity to oversee the process
- You can share your knowledge and experience of crofting with your chosen new crofter
- It avoids potential disputes between possible successors
- It allows you to see the croft in new hands and the many benefits it can bring to the area



The benefits of an active croft in the local area



Economy

- Agriculture grants for livestock or growing crops
- Money spent in the local community
- Crofters can operate businesses from their croft, for example agritourism
- Access to crofting agricultural funding and support schemes
- Crofting households may include several people, who are all looking after the croft, and are making a contribution to the rural economy
- Renewable energy opportunities on croft land
- When common grazings are positively managed, this can offer the opportunity for development taking place



Environment

- The opportunity to retain and enhance biodiversity
- Croft land is kept in good condition for present and future generations
- Crofting's low intensity form of land management has a positive environmental impact on the landscape
- Locally grown food helps to reduce food miles



Culture

- The culture associated with crofting forms a distinctive part of the cultural heritage of Scotland and will be preserved
- Local crofting knowledge built up over many generations is passed on to new crofters



Community

- The opportunity for building houses to increase or retain population
- Helping to retain or grow community services and amenities such as schools, shops, community facilities, through population retention
- Crofters developing cooperative working with the sharing of communal crofting activities, machinery, and skills
- A strong sense of community and common purpose
- Active crofters help to ensure Common Grazings are well managed with a grazings committee in place

How to pass on your croft during your lifetime

As a tenant crofter you can apply to assign your croft

Assignment is the **permanent transfer** of a tenancy to a person of your choice, which is subject to approval by the Crofting Commission. This can be to a family member, or you can transfer your tenancy, for a price you agree, with a proposed assignee. For more information on Assignment please visit our website.



You should always seek independent legal advice before transferring a croft (tenancy or owner-occupied) as the transfer is permanent and cannot be reversed, should you change your mind.

As an owner-occupier crofter you can transfer the land ownership using a solicitor

It is advisable that you instruct a solicitor, who has knowledge and experience of dealing with croft succession. The Law Society of Scotland can help you find you find a solicitor with crofting experience. Please visit their website at www.lawscot.org.uk

The new crofter should inform the Commission of the change of ownership by submitting a change of croft ownership notification. Further information is available on the Crofting commission website.



Things to consider in the succession of your croft

Your Successor

When choosing your successor, we recommend you discuss your intentions with them and consider both their desire to become a crofter and their ability to fulfill the duties of a crofter.

These duties are defined in legislation and include:

- A duty to be resident on or within 32 kilometres of the croft
- A duty not to neglect the croft
- A duty to cultivate and maintain the croft or to put it to another purposeful use

Should you have no successor in mind, the Scottish Land Matching Service (SLMS) holds details of those looking for an opportunity in crofting. It also offers a place to register an opportunity which may be of interest to aspiring crofters. www.slms.scot.

House on the Croft

Having a house on the croft is a key consideration for crofters with regard to succession. Making a provision for the house may be an important step to allow living succession to take place, depending on the situation. The following information is hoped to clarify the situation and help address these concerns.

Firstly, it is very important that you know the status of the house on the croft. If you are unsure, please look up the croft on [Register of Crofts](#) (there is a section showing decroftings at the bottom of the page) or contact the Commission directly.

If the house **is de-crofted** (removed from crofting), any changes you make to the croft **will not** affect the house.

If the house **is not de-crofted** any changes or plans you make for the croft **will** affect the house as well.

If you wish to carry out living succession and pass on the croft **but not the** house you may wish to de-croft the house before assigning the tenancy or transferring ownership.

If you wish to assign or transfer ownership of the croft with the croft house remaining part of the croft, but, you would like to continue to live there until your death, a solicitor can arrange a life rental agreement. *Please note that this can have an effect on your successors' ability to obtain Croft House Grant Scheme (CHGS) for a new house as the current house would be the statutory croft house.*

If you want to keep the house as part of the croft and pass on the house and croft to separate people following your death you must clearly specify this in your Will. Your Executor will be required to submit a "Division by Executor Application" following your death.



Croft Division

A crofter can, if they wish, divide their croft prior to succession. This may be something you want to consider if you have more than one successor in mind. It is important to note that you can only assign the croft to one named individual. The process for division is different depending on the crofter's status. Further information is available on our website.

Croft Registration

If your croft is not already registered or if you are not undertaking an application or notification for which registration is necessary, then you may wish to consider voluntary registration of your croft in the Registers of Scotland Crofting Register. This registration is based on the map of your croft. A fee is payable to Registers of Scotland (currently £90) to first register your croft. Subsequent amendments including division, assignation or decrofting will incur an additional fee of £90. Further information is available on the Crofting Register website at www.crofts.ros.gov.uk

Power of Attorney

Putting in place a Power of Attorney can give you peace of mind that someone you trust is in charge of your affairs should the need arise. For more information see the

What is a Power of Attorney
(publicguardian-scotland.gov.uk)



Do you want to apply to Sublet your Croft?

Subletting is the term used to describe the arrangement where a croft tenant can apply to the Commission to allow another person to work all, or any part, of their croft and/or the shares in a common grazing for a fixed period. In terms of succession, this can be a useful exercise to allow your future successor to begin working the croft while remaining tenant. It can also be useful to ensure the croft is worked by someone else for a set time frame, if your chosen successor is unable to take over the tenancy and meet their crofting duties.

It is the Commission's policy that subletting approvals in respect of applications by non-resident crofters are normally limited to 5 years or less. The Commission does not see subletting as a long-term solution to non-residency on a croft. Further details on Sublets and the application forms and guidance can be found on our website.

Do you want to apply for someone to have a Short Term Let of the Croft?

A short-term let is the term used when an owner-occupier crofter lets his or her croft to a tenant for a period not exceeding 10 years. (The Commission will normally restrict short term lets where the owner-occupier crofter is non-resident to 5 years or less) Further details on Short Lets and application forms and guidance can be found on our website.

Further information and guidance on the application types and processes mentioned in this booklet can be found on the Commission's website.
www.crofting.scotland.gov.uk

Planning for your croft in your Will

If you would rather keep your croft during your lifetime, you should be aware that, for as long as you are a crofter, you are required to comply with all crofting duties, including the duty to cultivate the croft.

It is important that crofters make a Will that includes the croft and any grazing share(s). It is advisable that you instruct a solicitor, who has knowledge and experience of dealing with Wills involving crofts. The Law Society of Scotland can help you find a solicitor with crofting experience. Please visit their website at www.lawscot.org.uk

Key Points of Croft Wills

1. Ensure the solicitor you use has experience of dealing with crofting matters in a Will.
2. Make sure you know your croft status (are you a Tenant or an Owner-Occupier).
3. Make sure you know the status of any grazings shares (whether they form part of the croft tenancy or whether they are stand-alone shares). The status of your croft and shares can be checked on the Register of Crofts page on the Crofting Commission website.
4. Be specific as to who you are leaving the croft to.
5. Ensure grazings shares are dealt with in the Will, particularly if they are stand-alone shares (Deemed Croft).
6. Make specific provision for who is to inherit the house on the croft, if it has been decrofted (If the house is still part of the croft, whoever succeeds to the croft, may also acquire the croft house).
7. Keep your Will up to date; make sure any material changes to your croft or circumstances are included.



Intestate Croft Succession

When a crofter dies with no Will or the Will is not able to be given effect to, then the croft tenancy falls into what is known as "intestacy". Intestate croft succession is a complex area of law, which can sometimes take a long time to resolve, and sometimes there is no clear line of succession, and on occasion several parties can have an interest in the tenancy. It can also be expensive. In intestacy, the croft will often not pass directly to the person you might have expected or intended would succeed. It is therefore very important to have a succession plan for your croft.

Further Sources of Information

Crofting Commission Website

Please visit our website for further information and guidance of all the regulatory applications mentioned above including; assignation, decrofting, subletting, short term lets and succession.

Telephone 01463 663439
www.crofting.scotland.gov.uk

Your Landlord

Landlords often have original estate maps which may be of assistance in the croft registration process.

Farm Advisory Service Funding

Crofters can now access up to £1,000 in funding through the Farm Advisory Service (FAS) for specialist advice on succession planning – without the need for a prior Integrated Land Management Plan (ILMP).

www.fas.scot/succession-planning-crofting
Telephone 0300 323 0161



Scottish Land Matching Service

The Scottish Land Matching Service holds details of those looking for an opportunity in crofting which may be of interest to aspiring crofters and also a place to register an opportunity.

www.slms.scot
Telephone 07741 902648

Citizens Advice Scotland

Advice provided by this service is free, independent, confidential, impartial and available to everyone.

Free Helpline 0800 028 1456

Royal Scottish Agricultural Benevolent Institution (RSABI)

RSABI can discuss any personal concerns over succession and point you in the direction of professional support and advice.

www.rsabi.org.uk
Freephone 0808 1234 55

Law Society of Scotland

Law Society of Scotland can provide information about common legal issues and how a solicitor can help you.

www.lawscot.org.uk/for-the-public
Telephone 01312267411





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