

Decrofting (Part) Di-chroiteadh (Pàirt)

DELEGATED DECISION MAKING AND ESCALATING CASES

Where an application complies with the published Commission policy and delegation parameters; a decision may, generally, be taken by the Case Officer at Tier One of the delegated authority structure as approval of such applications has been delegated to those officials.

Cases which do not meet these guidelines, generally, require us to collect further information e.g. obtaining a SGRPID report. The decision making for such cases is escalated to a panel of senior officials at Tier 2. In certain circumstances a case may be escalated to the full board of Commissioners to decide the case.

As a result, these cases will tend to take longer for the Commission to consider. While escalated applications may be approved in their entirety, the Commission may also modify the boundaries or reduce the extent of the area to be decrofted. In addition, if escalated from Tier One, applications can be refused.

Applications to decroft part of a croft are generally escalated to Tier Two due to the failure to comply with one or both of the following:

1. Ensuring the purpose applied for is reasonable

Policy	Tier One Parameter
<p>The Commission's Policy Plan states at paragraph 25 that:</p> <p>"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."</p>	<p>The parameters for delegation require that:</p> <p>Any application which is not for a reasonable purpose in terms of section 20 of the Crofters (Scotland) Act 1993 should be escalated.</p> <p>Examples of reasonable purpose are set out at section 20 of the 1993 Act, these include (illustrative not exhaustive):</p> <ul style="list-style-type: none">• The building of dwellings• Harbours, piers, boat shelters• Churches or other places of worship• Schools• Halls of community centres• Roads• The generation of energy• Purposes likely to provide employment for crofters and others in the locality.



Gheibhear tuilleadh
foisrachaidh Di-chroiteadh
air ar làrach-lìn
[www. Coimisean na Croitearachd](http://www.Coimisean na Croitearachd)

You can find more
information on Decrofting
on our website:
www.crofting.scotland.gov.uk

2. Ensuring the size of the area is acceptable

Policy	Tier One Parameter
<p>The Commission's Policy Plan states at paragraph 27 that:</p> <p>"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."</p>	<p>The parameters for delegation require that:</p> <p>Any application where the combined area of dwelling house and garden ground was in excess of 0.40 (ha) should be escalated...</p>

3. Ensuring adequate access to the croft (and other croft land) remains

Policy	Tier One Parameter
<p>The Commission's Policy Plan states at paragraph 64 that:</p> <p>"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."</p>	<p>The parameters for delegation require that:</p> <p>Cases should be escalated if access is included in the application but either no or inadequate access has been identified.</p>

A full list of the delegated decision making parameters for decrofting applications can be viewed on our website www.crofting.scotland.gov.uk/decrofting.

During the course of the processing of a case, an applicant will generally be given the opportunity to modify their application to comply with the foregoing policy guidelines and delegation parameters. If an applicant proposes such a modification, the case could still be dealt with at the Tier One level of decision making. It should be noted that modification of any application will not guarantee that the Crofting Commission will grant a decrofting Direction in respect of the modified proposal. If they do not propose a modification, the Commission will process the case on the applicant's understanding that it will be subject to escalation and potential refusal. Although, the Commission considers every application on its own circumstances and the evidence gathered during the processing of the case.

Also, the Commission is legally required to advertise every part or whole croft decrofting application in order to notify members of the crofting community of the application and provide them with the opportunity to comment on the proposed decrofting. Where negative comments are received, the case must be escalated for decision.