



**CROFTING COMMISSION  
COIMISEAN NA CROITEARACHD**

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# **Application for Commission Consent to Let a Croft Tenancy Guidance Notes**

## **Notaichean Stiùiridh air Tagradh airson Cead a' Choimisein Gabhail Croite a Leigeil air Mài**

Letting is the term used to describe the let of a croft, with the consent of the Commission, by a landlord or owner-occupier crofter, to a tenant.

Please note, if a croft is held in joint ownership then a croft tenancy cannot be let to one of the joint owners. A let can be of the whole croft or part of a croft, either as a separate unit or as an enlargement to another croft. If the let is as an enlargement, the croft to be enlarged must be tenanted by the proposed tenant in this letting application.

If the application is to enlarge an existing croft, then both crofts will require to be registered with the Keeper of the Registers of Scotland, prior to the Commission making a decision on the application.

An owner-occupier crofter who lets their croft to a tenant will then become the landlord of that croft – and their owner-occupier crofter status would cease to apply.

Where the croft land to be let has more than one owner, all owners must sign the application. In situations where owners hold separate title to distinct parts of a croft we recommend that you notify the other owners of your proposal to let.

Please note if the application is approved a rent, however nominally, must be charged.

## **1. REQUIREMENT TO REGISTER YOUR CROFT LAND**

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The final element of the Crofting Reform (Scotland) Act 2010 relating to the registration of croft land came into effect on 30 November 2013.

The Crofting Register is map based and provides a definitive record of the extent of, and interest in, land within crofting tenure in Scotland. In addition to showing the boundaries of land, the register contains information on the tenant, owner-occupier crofter and/or the landlord of the registered croft. The Crofting Register is maintained by the Keeper of the Registers of Scotland, although the application for registration should be made in the first instance to the Crofting Commission who will check the information contained in or accompanying the registration application against the information contained in the Commission's Register of Crofts.

If your croft is **unregistered**, the Commission will be unable to make a decision on your letting application until the croft has been registered with the Keeper of the Registers of Scotland. To avoid delays therefore, we recommend that your letting application should be accompanied by your application to register the croft on the Crofting Register. This must be accompanied by a map showing the boundaries of the croft along with the registration fee. A copy of the registration form and accompanying guidance notes can be found at [www.ros.gov.uk/services/registration/crofting-register](http://www.ros.gov.uk/services/registration/crofting-register). If an application to register is not submitted within 6 months of the date of receipt of this application, the application to let will be withdrawn from our records and returned to you.

Please note if the application is to enlarge an existing croft, both the croft forming the enlargement and the croft to be enlarged, must be registered prior to the Commission making a decision on the application.

If your croft is already registered with the Keeper of the Registers of Scotland, an application for Registration of a Subsequent Event will be required should your letting application be approved.

## 2. IMPORTANT INFORMATION

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If the application is being submitted by anyone other than the landlord/owner-occupier crofter or their Solicitor, the form should be accompanied by written confirmation from the landlord/owner-occupier crofter that they authorise the signatory to act as their agent.

All questions must be answered as fully as possible, otherwise the form may be returned. To enable the Commission to give full consideration to your application, we would appreciate if you would provide us with as much information as possible to help us to arrive at a fully informed decision.

- **FIRST REGISTERED CROFT**

If we approve the application, the let will take effect on the date you provide in your notification form confirming that you have entered into a formal tenancy agreement with the new tenant.

Your notification must be sent to the Crofting Commission **within three months** of the date of our decision letter.

- **WHERE CROFT HAS ALREADY BEEN REGISTERED**

### A) OWNER-OCCUPIER CROFTER APPLICANTS

If we approve the application, the new tenant must submit an application to register the let with the Registers of Scotland. The let will take effect on the date of registration.

The application must be sent to the Crofting Commission **within three months** of the date of our decision letter.

### B) LANDLORD APPLICANTS

If we approve the application, you must submit an application to register the let with the Registers of Scotland. The let will take effect on the date of registration.

The application must be sent to the Crofting Commission **within three months** of the date of our decision letter.

### 3. APPLICATION DETAILS

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#### 3.1 Mapping Information

Your letting a croft application must be accompanied by a map of the whole croft boundary being applied to let. If the croft has multiple owners, an ownership map should be provided clearly showing the boundaries of land that each person owns. Please refer to the example plans in Appendix 1 and 2 for further details of requirements.

### 4. RESIDENCY AND LAND USE

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#### Section 58A(7)(a) of the Crofters (Scotland) Act 1993

In considering its decision on this application, the Commission must have regard to:

- whether any person is or will be ordinarily resident on, or within 32 kilometres (20 miles) of, the croft;
- whether the croft is being or will be cultivated or put to such other purposeful use

#### 4.1 What are Crofter's Duties?

##### Crofters Duties

Both tenant and owner-occupier crofters have a duty to:

- **Be resident on, or within 32 kilometres (20 miles) of their croft**
- **Not to misuse or neglect the croft**

**Misuse** – This refers to a croft being used for something which is not considered as cultivation. Crofters require the consent of their landlord or, failing that, the Crofting Commission if they wish to put their croft to another purposeful use.

**Neglect** – This refers to the management of the croft which should meet the standards of Good Agricultural and Environmental Condition (GAEC).

- **Cultivate and maintain the croft**

**Cultivate** – This refers to the croft being used for cultivation or put to another purposeful use. This includes horticulture, keeping livestock including poultry and bees, growing of crops and the planting of trees.

**Maintain** – This refers to the maintenance of the croft; to enable the croft to be cultivated it must be maintained in a fit state except where another purposeful use is incompatible with the croft being kept in such a state.

**Purposeful use** – This means any planned and managed use which does not adversely affect the croft, the public interest, the interests of the landlord or (if different) the owner, or the use of adjacent land.<sup>1</sup>

<sup>1</sup> A crofter may only put the croft to a purposeful use if the landlord has consented to the use (unconditionally or subject to conditions acceptable to the crofter); or the Commission have consented to the use if the landlord has withheld their consent.

## 5. WIDER INTERESTS

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### Section 58A(7)(b)-(e) or the Crofters (Scotland) Act 1993

In considering its decision on this application, the Commission must have regard to:

- (b) the interests of the estate which comprises the land to which the application relates;
- (c) the interests of the crofting community\* in the locality of that land;
- (d) the sustainable development of that crofting community;
- (e) the interests of the public at large

In this section you are provided with the opportunity to make any comments on these matters which you consider the Commission should take into account when considering your application.

*\*Crofting community means all the persons who (either or both) occupy crofts within a township which consists of two or more crofts registered with the Crofting Commission; hold shares in a common grazing associated with that township.*

### 5.1 Sustainable Development

Sustainable development of a crofting community will normally include the economic social and environmental well-being of the community but meeting the sustainable development criteria need not require meeting all these strands. For instance, the agricultural aspect of crofting is not always necessarily financially sustainable, but this does not preclude it from adding value to the well-being of the individual and the surrounding community. Consideration of applications should take account of the maintenance and possible increase in populations, good management practices, the protection and enhancement of environmental assets, economic demand and employment opportunities, the protection and encouragement of biodiversity, the production of renewable energy reduction in carbon emissions, resource efficiency and the avoidance of dereliction of land. There are many criteria available when considering sustainable development although not all will be applicable to each circumstance.

### 5.2 Public Interest

Crofting legislation does not define 'public interest', although it contains various references to it. It is therefore for the Commission to be satisfied that, where required on a case-by-case basis, the public interest test is met.

In exercising its functions, the Commission must have regard to (a) the desirability of supporting population retention in the crofting counties and in any other designated area where crofts have been created, and (b) the impact of changes to the overall area of land held in crofting tenure to the sustainability of crofting.

In determining if, for example, approving an application is in the public interest, the Commission may consider any evidence of the benefits and disbenefits to other crofters, crofting communities, the wider community and others the Commission considers as having an interest in the application. The Commission will also take into account the Scottish Government's crofting policies and will normally favour the wider public interest particularly where individual private interest will disadvantage the sections detailed above.

## **6. POLICY PLAN**

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In considering applications, the Commission will apply its policies on residency, land use and shared management and it will take into account the demand for crofts in the area.

To ensure that all relevant information is considered in its decision making, where a proposed tenant, subtenant or short lease holder has other croft or agricultural land available, the Commission may take account of how that land is cultivated and maintained.

## **7. NOTIFICATION TO THE OWNER OF THE COMMON GRAZINGS**

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This applies where the grazings are (a) included in the let of the tenancy and (b) the grazings are owned separately from the croft land.

You are legally required to notify the owners of the common grazings of this application. In order to confirm you have done this could you please provide one of the following:

1. A letter confirming receipt of notification from the owners of the common grazing) OR
2. Evidence of notification having been sent by registered post or recorded delivery to any owners of the common grazing.

## 8. PUBLIC NOTIFICATION

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You must advertise your application to let the croft/part of a croft in a newspaper. You are responsible for paying for the advert. Please refer to our guidelines on advertising applications on our website at [www.crofting.scotland.gov.uk/forms-and-guidance](http://www.crofting.scotland.gov.uk/forms-and-guidance) Failure to follow the guidelines may result in you having to re-advertise your application in an accepted newspaper, at your own expense.

We would encourage you to contact the local Grazings Clerk/Constable to make them aware of your proposals, as experience has shown this can help establish good community relationships.

**It is important that this application is sent to us before the advert appears in a newspaper.**

*Sample Newspaper Advert*

### Proposed Let of a Croft/Part of a Croft

\_\_\_\_\_ (your name) is/are  
applying to let the tenancy of \*the croft/part of croft at (croft name and parish)  
\_\_\_\_\_ to  
\_\_\_\_\_ (proposed tenant name) of  
\_\_\_\_\_ (address)

Written comments from those with a relevant interest (which may be made public) to: Crofting Commission, Leachkin Road, Inverness IV3 8NW, [info@crofting.gov.scot](mailto:info@crofting.gov.scot) within 28 days from the date of the advert.

*\*Delete as appropriate*

11. An up to date Ordnance Survey map should provide sufficient surrounding detail (e.g. fences, rivers, buildings).

1. Whole croft boundary. If the croft is registered this should match the boundary held by Registers of Scotland.

2. References to apportionments.

10. Access: Vehicle access should be shown where appropriate. It should be made clear whether this is part of the croft or not.

5. Boundary descriptions should be provided

4. Proposed area to be let.

9. Scale bar.

8. Appropriate map scale.

7. North arrow.

6. Map Coordinate: For the middle of the site. These can be either Eastings & Northings or national grid six figure format (e.g. NG 033 836).

0 12.5 25 50 75 100 Metres Scale: 1:1,500

Eastings: 103,395 Northings: 883,721

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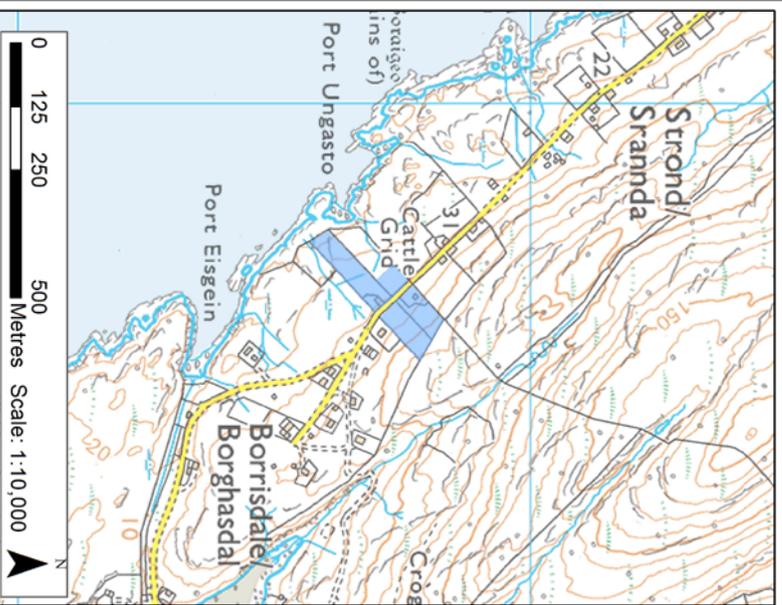
# Appendix 1

## MAP FOR EXAMPLE PURPOSES ONLY

**Legend**

-  Croft
-  Proposed area to let
-  Vehicle access (within croft)
-  Apportionment

3. A location plan of the croft boundary should be provided if map coordinates cannot be given.

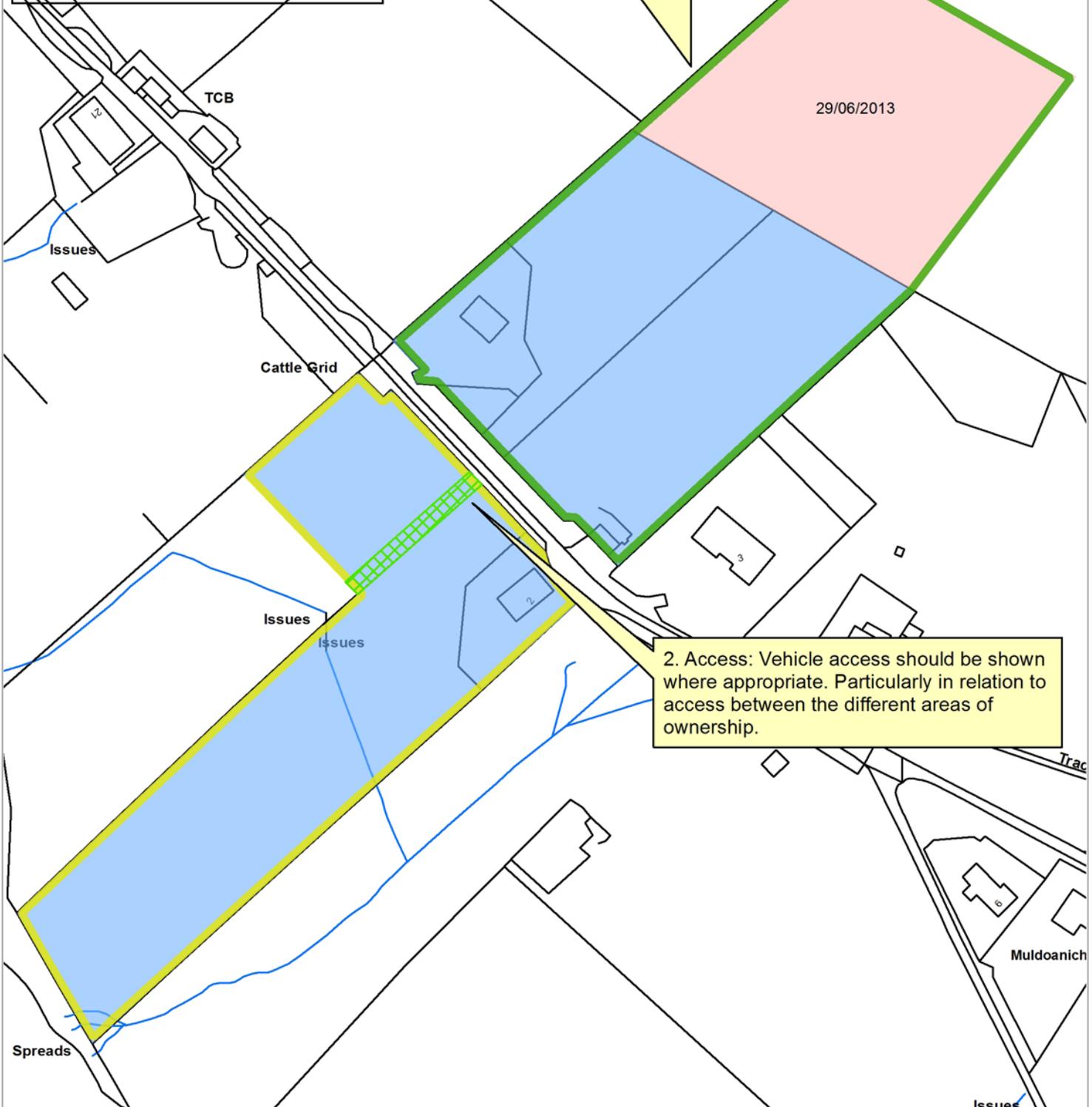


## Appendix 2 Example Ownership Map

MAP FOR EXAMPLE PURPOSES ONLY

-  Owner A land
-  Owner B land
-  Croft
-  Apportionment
-  Vehicle access

1, Ownership boundaries should be clearly shown for the whole croft, including any apportionments.



2. Access: Vehicle access should be shown where appropriate. Particularly in relation to access between the different areas of ownership.

Scale: 1:1,600

0 12.5 25 50 75 100  
Metres



Eastings: 103,395  
Northings: 883,721

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