



**CROFTING COMMISSION  
COIMISEAN NA CROITEARACHD**

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# **Decrofting Application Part Croft (Tenanted) Guidance Notes**

## **Di-chroiteadh Pàirt Croit – Stiùireadh neach-gabhail**



**Decrofting is the term used when land is removed from crofting tenure.**

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

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Submitting a decrofting application triggers the requirement to register your croft land in the Crofting Register held by the Keeper of the Registers of Scotland.

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 also contains information on the crofter, 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 is 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 decrofting application until the croft has been registered with the Keeper of the Registers of Scotland. To avoid delays therefore, we recommend that your decrofting application should be accompanied by your application to register the croft on the Crofting Register (ROS Form A). 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is not submitted within 6 months of the date of receipt of this application, the application to decroft will be withdrawn from our records and returned to you.

If your croft is already registered with the Keeper of the Registers of Scotland, an application for Registration of a Subsequent Event (ROS Form B) will be required should your decrofting application be approved. The Form B should not be submitted until after the Regulatory Decision has been intimated.

## **2. IMPORTANT INFORMATION**

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Before you submit an application please check your details on the Commission's Register of Crofts <http://www.crofting.scotland.gov.uk/register-of-crofts-roc>

It is the Commission's understanding that there is no statutory provision contained in the Crofters (Scotland) Act 1993 which would enable an Executor to submit a decrofting application. This is consistent with our understanding that the role of an executor is to administer and distribute the estate belonging to the deceased at the date of death i.e. prior to any decrofting. It will of course be open to a successor to apply for a decrofting direction, should they choose to do so, once the succession to the tenancy has been resolved.

If the application is being submitted by anyone other than the croft, their Solicitor or Professional agent, the form must be signed by the crofter at 3A or accompanied by written confirmation from the crofter that they authorise the signatory to act as their agent.

If the area sits within the Common Grazings, the Common Grazing land must be fully apportioned i.e. it must have a final order of apportionment issued under Section 52(4) of the Crofters (Scotland) Act 1993, before a decrofting application can be considered.

If your application is approved, we will issue an **'Advance of Purchase'** decrofting direction. This means that to effect the direction you or your nominee must purchase the area approved within 5 years of the date of that direction and fulfill any registration requirements. This is a statutory time limit, which we cannot extend or modify. You may wish to inform your landlord of this application and of your intention to purchase the area so agreement can be reached with regard to extents and boundaries.

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

### **3 APPLICATION DETAILS**

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In considering its decision on this application, the Commission will give regard to the purpose and whether the extent applied for is appropriate for the stated purpose and not excessive in line with Sections 24(3) and 25 of the Crofters (Scotland) Act 1993 and the decrofting section of the Crofting Commission's Policy Plan.

#### **Section 20(3) of the Crofters (Scotland) Act 1993**

The Commission could consider a decrofting application to be a reasonable purpose where it relates to:

- (a) the using, letting or disposing of the land for:
- the building of dwellings
  - small allotments
  - harbours, piers, boat shelters or other like buildings
  - churches or other places of religious worship
  - schools
  - halls or community centres
  - planting
  - roads practicable for vehicular traffic from the croft or township or the public road or to the seashore
  - the generation of energy or
  - any other purpose likely to provide employment for crofters and others in the locality or
- (b) the protection of an ancient monument or other object of historical or archaeological interest from injury or destruction.

Please note this list is illustrative only. It is not exhaustive, neither does the purpose indicated above guarantee approval of an application to decroft.

#### **3.1 PLANNING PERMISSION**

If the application is for a proposed new development, you must include a copy of the planning permission granted for the proposed development (either full planning permission or planning permission in principle).

If planning consent has been applied for but has not yet been approved when you make your application, we will need you to provide the planning application reference number. This is to confirm that you have applied for planning permission for the proposed development. Please note that we will be unable to take a decision on your decrofting application until planning permission is granted. You should notify us when you obtain planning permission so that we can resume the processing of your application as soon as possible. If planning permission is refused, we will be unable to proceed with your decrofting application and this will be returned.

## 4 WIDER INTERESTS

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The Commission must have regard to whether it will be for the good of the croft, estate or the crofting community\* in the locality of the croft or the public interest. The Commission may also take account of the effect of the stated purpose on the sustainability of crofting or the crofting community in that locality or the communities in that area, and the environment and landscape of that locality or area. The Commission may also consider the impact of the stated purpose on the social and cultural benefits associated with crofting.

*\*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.*

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.

### 4.1 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 sustain ability of crofting.

In determining if, for example, approving an application is in the public interest, the Commission may consider any evidence of the advantages and disadvantages 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.

### 4.2 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 ACCESS

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The Commission will give priority to the provision of appropriate access to **all** remaining parts of the croft and, where appropriate, the common grazing. The provision should allow unrestricted access at all times including access for agricultural machinery (the recommended minimum width for access is 4 metres). Failure to meet this provision is likely to result in the application being modified or refused.

Your site map must show all existing access routes to the croft **as well as** any proposed access provision.

## 6 MAPPING INFORMATION

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Your decrofting application must be accompanied by a site map of the area being applied to decroft. Please refer to the example plan (Appendix 1) for further details of requirements.

# Appendix 1 Example Site Map

-  Proposed decrofting
-  Vehicle access (within croft)

## MAP FOR EXAMPLE PURPOSES ONLY

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

9. Access: Vehicle access should be shown to the remainder of the croft and any adjacent croft land.

1. Area to be decrofted: The boundaries of the area proposed to be decrofted should be clearly shown.

2. Extent of the area to be decrofted should be clearly stated in hectares to 3 decimal places.

3. Dimensions should be provided for each boundary in metres, to 1 decimal place.

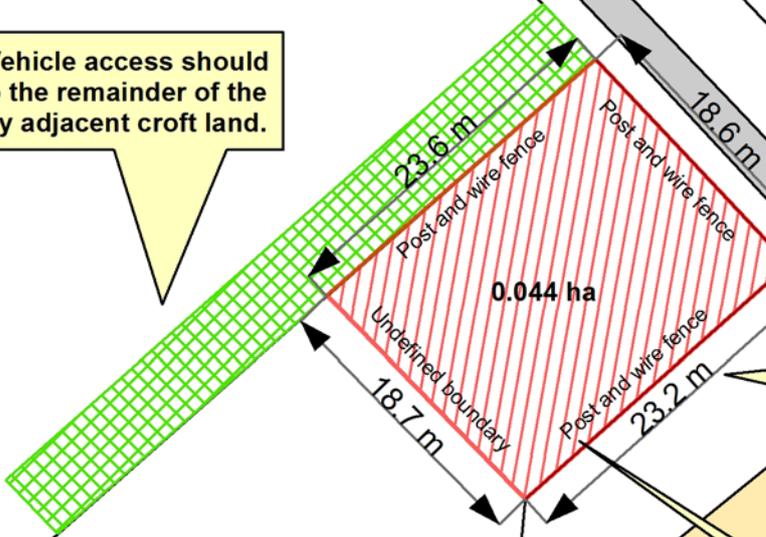
4. Boundary descriptions should be provided

8. Appropriate map scale.

7. Scale bar and text.

6. North arrow.

5. 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).

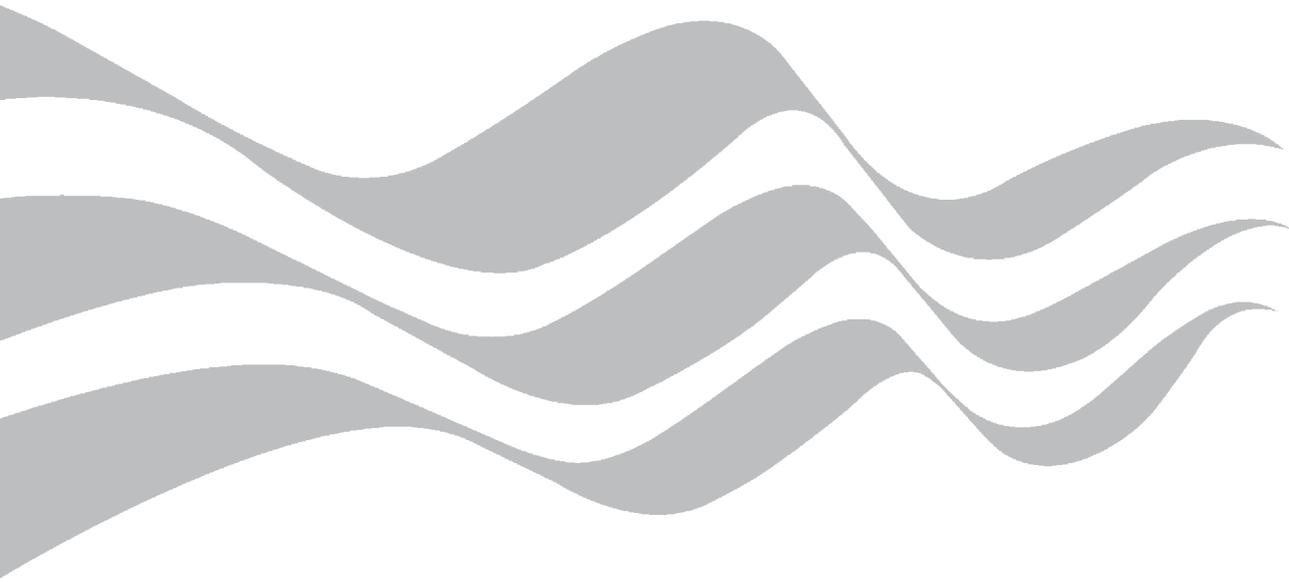


Scale: 1:500



Eastings: 103,395  
Northings: 883,721

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Crofting Commission.



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