



**CROFTING COMMISSION  
COIMISEAN NA CROITEARACHD**

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## **Application for Commission Consent to Sublet a Croft Tenancy**

## **Tagradh airson Cead a' Choimisein gu Gabhaltas Croite fho-leigeil air Màl**

This document comprises the application form  
at pages 1-34 and guidance notes at pages 35-41.  
There is no requirement to submit the guidance notes.

# SECTION 1

## WHAT IS A SUBLET?

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The long term use of a croft by another person requires the consent in writing of the Crofting Commission. Subletting is the term used to describe the arrangement whereby a croft tenant, with the consent of the Commission, allows another person (known as the subtenant) to work all (or any part of the croft) and/or the shares in a common grazing for a fixed period of time. It is important to note that subletting does not affect a tenant's security of tenure.

- A crofter is entitled to sublet his croft, for a period not exceeding 10 years, without the consent of the landlord of the croft. The consent of the Commission is, however, required.
- A rent, however nominal, must be charged.
- An example of **Standard Conditions of Sublet** is included as an appendix at the end of this form.

## SECTION 2

### PRIVACY POLICY

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The Crofting Commission acts as the 'Controller' of the personal data you provide us with when you complete a Regulatory Application. Under the Crofters (Scotland) Act ("The 1993 Act") we are obliged to collect this information in order to facilitate the processing of your application. Please note that the Commission will be unable to process your application if you do not provide the information requested.

Any data provided by you is part of an open process and may be made available to other parties involved (unless told otherwise). These could include:

- The tenant / owner-occupier crofter / landlord of a vacant croft
- The proposed tenant / subtenant
- The landlord of the croft
- The owner of the common grazings
- The area assessor
- The grazings committee
- The owner of any adjacent non-croft land
- The occupier of any adjacent non-croft land
- Any member of the local crofting community
- Any other person with a significant interest
- Third Party Organisations – RPID (Rural Payments & Inspections Directorate) and the Registers of Scotland.

Your data will be used to update the Register of Crofts and it may also be released under a Freedom of Information enquiry, subject to any disclosure exemptions under Data Protection Laws.

Your information will be stored in the format received and electronically in the Commission's Crofting Information System (CIS). We will not keep your personal data for any longer than is necessary to complete the relevant processing and in line with our Retention Policy.

If at any point you believe the data we process on you is not accurate, you can request to see it and have it corrected or deleted. If you wish to raise a complaint about how we have handled your personal data, you can contact our Data Protection Officer who will investigate the matter. Our Data Protection Officer can be contacted by e-mailing [DataProtection@crofting.gov.scot](mailto:DataProtection@crofting.gov.scot). Further details on the Crofting Commission's Data Protection Policy can be found at [www.crofting.scotland.gov.uk/data-protection-act](http://www.crofting.scotland.gov.uk/data-protection-act).

For information on submitting a complaint to the Crofting Commission, please visit our website at [www.crofting.scotland.gov.uk/complaints](http://www.crofting.scotland.gov.uk/complaints). For details of how to complain to the Information Commissioner, please visit [www.ico.org.uk](http://www.ico.org.uk).

**Please tick this box to confirm you have read and understood the Crofting Commission's Privacy Policy**

## SECTION 3

### PRE APPLICATION CHECKLIST

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#### What do I need to do before I apply?

Check if you are a tenant. Find out via the Register of Crofts ([www.crofting.scotland.gov.uk/register-of-crofts](http://www.crofting.scotland.gov.uk/register-of-crofts))

- 1) **Make arrangements for your application to be advertised.** You will require to advertise the regulatory application and provide the Commission with details of the name of the newspaper and the date the advert will appear. **[Please refer to guidance section – PUBLIC NOTIFICATION](#)**
- 2) **Notify your landlord of the application in writing.** If your regulatory application includes a share in a common grazings, you must also give written notification to the owner(s) of the common grazings.<sup>1</sup> **[Please refer to Appendix – Sample Notification for sending to Landlord](#)**
- 3) **If applicable, prepare and provide a map of the croft boundary.** If your croft is not registered on the Register of Scotland's Crofting Register or if you are applying to sublet only part of your croft, a map must be provided of the unregistered croft and/or of the part of the croft to be sublet. **[Please refer to guidance section – SAMPLE MAP](#)**

#### HOW DO I APPLY?

- Online Application (**Recommended**) This application can be completed and submitted through the Online Application Portal on our website here: <https://account.crofting.scotland.gov.uk/>
- Upload this PDF via the Online Portal: <https://account.crofting.scotland.gov.uk/>
- Print and post this application to us. If you are printing this application to submit to us via post there is no need to print the guidance section.

<sup>1</sup> You are legally required by the 1993 Act to give written notice to your landlord (and if your application includes grazings share(s), the owners of the common grazings) of this application.

## SECTION 4

### IMPORTANT INFORMATION

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**It is important that you provide us with as much information as possible.** This will help to prevent delays resulting from us having to contact you to obtain additional information. It will also help the Commission arrive at a fully informed decision on this regulatory application.

**However please avoid, where possible, providing sensitive personal information** either in the regulatory application itself or as supporting documentation e.g. detailed medical information. For further information, please refer to the terms of the Commission's Privacy Policy.

**Policy Plan:** Before completing the form you should read the extract from the Commission's Policy Plan in relation to your application **[i Please refer to guidance section – POLICY PLAN](#)**

**Delegated Decision Making:** The Commission operate a model of Delegated Decision Making, with officers able to approve straightforward cases that meet all the legislative, policy and parameter requirements. Parameters are set by the Commission for each regulatory function so that they can be considered under the delegated decision making process. For further information please follow this link: **<https://www.crofting.scotland.gov.uk/forms-and-guidance>**

Before completing the form you should read the delegation parameters relating to your regulatory application at the following link: **<https://www.crofting.scotland.gov.uk/subletting>**

## SECTION 5

### WHO IS APPLYING?

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Tenant

Legal Guardian of the applicant<sup>1</sup>

(Enter Guardian's Name and Address in Additional Information Section)

Holder of Power of Attorney<sup>2</sup>

(Enter Power of Attorney's Name and Address in Additional Information Section)

Accountant in Bankruptcy<sup>3</sup>

(Enter Accountant in Bankruptcy's Name and Address in Additional Information Section)

- 1 Legal Guardian of the applicant – A child under the age of 16 years must be represented by a Legal Guardian (usually a parent). Legal Guardians may also be appointed by Order of a Court following an application under the Adults with Incapacity (Scotland) Act 2000, authorising them to act and make decisions on behalf of an adult (anyone over the age of 16 years) with incapacity. If you are applying as the legal Guardian for an adult, you will need to provide us with a copy of the Court Order or other documentation which has authorised you to act in this capacity.
- 2 Holder of Power of Attorney – There are 2 different types of Power of Attorney (PoA). One allows a person ("the granter") to appoint one or more people to make decisions on their behalf, should they be unable to do so in the future. The PoA document can cover both "continuing" (in other words, financial and property) powers and welfare powers and needs to be registered with the Office of the Public Guardian (Scotland). The other is a legal document, usually drawn up by a solicitor, which gives an individual a usually time-limited and specific power to do certain tasks such as to sign a legal document on their behalf. You will need to provide us with a copy of the PoA document.
- 3 Accountant in Bankruptcy – The Accountant in Bankruptcy (AiB) is an Executive Agency of the Scottish Government responsible for administering the process of personal bankruptcy and corporate insolvency, administering the Debt Arrangement Scheme, and implementing, monitoring and reviewing government policy in these and related areas, for example protected trust deeds and diligence.

## Solicitor/Professional Agent Details (if applicable)

I am completing this application in my capacity as:

Solicitor for the applicant

Professional Agent for the applicant<sup>4</sup>

Name:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

<sup>4</sup> Professional Agent for the applicant – Crofting/Rural Consultant or Adviser.

## SECTION 6

### CROFT DETAILS

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Croft:

Township:

Parish:

Crofting Commission Register of Crofts Number:

Registers of Scotland Crofting Register  
Croft Number (where registered):

C



## SECTION 7

### TENANT DETAILS

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Title:

Surname:

Forename(s):

Date of Birth<sup>1</sup>:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

### Residency

Do you currently reside on or within 32 kilometres (20 miles) of the croft? Yes  No

<sup>1</sup> The 1993 Act was amended on 1 October 2011 to include the requirement that the age and date of birth of the tenant of each croft shall be entered in the Register.

## SECTION 8

### LANDLORD OF CROFT DETAILS

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Name of Organisation/Company/Estate:

Title:

Surname:

Forename(s):

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

If you have more than one landlord, please enter the details in Additional Information Section.

## **OWNER OF COMMON GRAZINGS DETAILS**

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Name of Organisation/Company/Estate:

Title:

Surname:

Forename(s):

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

If there is more than one owner of Common Grazings, please enter the details in Additional Information Section.

## **AGENT DETAILS FOR LANDLORD/OWNER OF COMMON GRAZINGS (only if applicable)**

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Name:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

If you have more than one agent, please enter the details in Additional Information Section.

## SECTION 9

### SUBLETTING DETAILS – CROFT AND SHARE APPLICATION DETAILS

If applicable, prepare and provide a map of the croft boundary. If your croft is not registered on the Register of Scotland’s Crofting Register or if you are applying to sublet only part of your croft, a map must be provided of the unregistered croft and/or of the part of the croft to be sublet.

**i** Please refer to guidance section - [SAMPLE MAP](#)

Are you applying to sublet only part of the croft? Yes  No

If **Yes**, please tell us:

The extent of the whole croft in hectares:

The extent of the area to be sublet in hectares:

**Prior to completing this section of the application, please read the Commissions leaflet on Delegated Decision Making and Escalating subletting cases at <https://www.crofting.scotland.gov.uk/forms-and-guidance>.**

How long are you applying to sublet for?

Please provide the reason why you, as applicant, are applying to sublet and the duration applied for:

Is there a croft house and garden on the croft? Yes  No

Is the croft house and garden to be included in the sublet? Yes  No

Does the croft have shares in any Common Grazings? Yes  No

Are any grazing shares to be included in the sublet? Yes  No

If **Yes**, please provide details below:

Name or Common Grazing	Croft Share/Souming	Share/Souming to be sublet

## SECTION 10

### LAND USE

The Commission require to know how the croft is currently being used.

Is the croft currently being used for cropping activities?

Yes

No

If **Yes**, please provide details below:

Crops (please tick all that apply)	✓	Hectares
Grass: Forage		
Grass: Grazing		
Cereals		
Vegetables		
Soft Fruits		
Apiary/Bee Keeping		
Tree Planting/Use of land as Woodland		
Other (Please specify)		

Is the croft currently being used for stock management purposes?

Yes

No

If **Yes**, please provide details below:

Livestock (please tick all that apply)	✓	Number
Sheep		
Cattle		
Poultry		
Pigs		
Other (Please specify)		

Do you put the croft to a purposeful use other than cultivation?  
 If **Yes**, please provide details below:

Yes

No

Purposeful Use (please tick all that apply)	
Tourist Accommodation Development	✓
Other Tourism Development	
Renewable Energy (eg wind turbines)	
Horse Livery	
Other (Please specify)	

# SECTION 11

## BUILDINGS

Are there any buildings on the croft? Yes No

If **Yes**, please provide details below:

<b>Type of Building</b> House (not decrofted) Domestic garage Domestic shed/outbuilding Agricultural/General purpose Livestock Housing Other (Specify)	<b>Age</b> <5 years 5-10 years 11-20 years 20> years	<b>Condition (indicate whether):</b> Good Moderate Poor Derelict	<b>Currently used?</b> Tick if Yes	<b>Comments</b>

Further information:



## SECTION 12

### FIXED EQUIPMENT AND PERMANENT IMPROVEMENTS

Is there any fixed equipment on the croft?

Yes

No

If **Yes**, please provide details below:

<b>Type</b> Fences Ditches Fanks Pens Other (Specify)	<b>Age</b> <5 years 5-10 years 11-20 years 20> years	<b>Condition (indicate whether):</b> Serviceable Partially Serviceable Not Serviceable	<b>Comments</b>

Further information:

## SECTION 13

### ADDITIONAL INFORMATION

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Please provide any additional information in support of your application that you consider may be helpful to the Commission in reaching its decision

## SECTION 14

### PUBLIC NOTIFICATION

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#### Please refer to Guidance – PUBLIC NOTIFICATION

Please give details of the public notification arrangements you have made below:

- (i) Name of newspaper displaying the advert:
- (ii) The date the advert will be displayed in newspaper<sup>1</sup>:

A standard advert for your use is included in the guidance notes.

<sup>1</sup> This should be no earlier than 1 month before the submission of the application and no later than 2 months after the submission of the application.

## SECTION 15

### APPLICANT/AGENT DECLARATION AND DISCLAIMER

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#### Applicant/agent please complete and sign this declaration

I confirm that I have carried out the following in connection with this regulatory application:

I have given the croft landlord(s)/owner of common grazings written notification of this regulatory application.

I have advertised this regulatory application in a newspaper circulating in the local area.

If applicable, I have enclosed a map of the croft and the area which is to be sublet if only part of the croft.

I understand that should this application be approved, it will be my responsibility for ensuring that the subtenant adheres to the statutory conditions of tenure.

I have read and understood the Commission's Privacy Policy.

I agree to communication regarding this application via email.

#### DISCLAIMER

All parties involved in any application/notification to the Commission should satisfy themselves as to the identities of the relevant parties involved in an application/notification as the Commission does not have the facility to carry out identity checks to verify a person's identity.

Any person who (i) knowingly provides false or incorrect information including any documentation or other information supplied with this application/notification, and/or (ii) who forges a signature (electronic or physical), may be guilty of a criminal offence. The Commission takes no responsibility for any such fraudulent acts or omissions. However, the Commission may investigate suspected fraud and any declarations, signatures or statements made in connection with the application/notification which the Commission suspects to be fraudulent will be reported to Police Scotland.

By signing this declaration, I acknowledge that I have read, understood, and agree to be bound by these terms and conditions.

#### DECLARATION

I declare that, to the best of my knowledge, the information I have given in this regulatory application is correct.

Signed

Date

## SECTION 16

### PROPOSED SUBTENANT DETAILS

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Title:

Surname:

Forename(s):

Date of Birth:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

**Solicitor/Professional Agent for Proposed Subtenant (if applicable)**

Name:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

I agree to communication regarding this application by email Yes                      No

## SECTION 17

### PROPOSED SUBTENANT RESIDENCY INFORMATION

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**i** Please refer to Guidance section – CROFTERS DUTIES

Do you currently reside on or within 32 kilometres (20 miles) of the croft? Yes No

If **No**, should the Commission consent to the application, can you confirm that you will be in a position to comply with the residence duty for the period of consent? Yes No

## SECTION 18

### PROPOSED LAND USE INFORMATION

**i** Please refer to Guidance – CROFTERS DUTIES

Do you intend to cultivate the croft? Yes  No

If **Yes**, please provide details below:

Crops/Proposed Cultivation (please tick all that apply)	✓	Hectares
Grass: Forage		
Grass: Grazing		
Cereals		
Vegetables		
Soft Fruits		
Apiary/Bee Keeping		
Tree Planting/Use of land as Woodland		
Other (Please specify)		

Livestock (please list all that apply) Eg. Sheep • Cattle • Poultry • Pigs	Number	Timescale 1st year 1-3 years 3+ years
Other (Please specify)		



How do you intend to maintain the croft?

<b>Proposed Maintenance (please tick all that apply)</b>	<input checked="" type="checkbox"/>
Repair/Renew Fencing	
Ditching	
Drainage	
Spraying/Remove Weeds	
Other (Please specify)	

Does the croft have an associated common grazing share? Yes  No

If **Yes**, please provide details of how you intend to use the share below:<sup>1</sup>

<b>Intended Use of Share(s) (please tick all that apply)</b>	<input checked="" type="checkbox"/>
Graze Sheep	
Graze Cattle	
Other (Please specify)	

<sup>1</sup> The grazing share is an integral part of the croft and we, therefore, need to know how it is to be used. Failure to provide these details may result in it taking longer to process this application.

## SECTION 19

### SKILLS AND EXPERIENCE

Do you have any crofting/agriculture experience?

Extensive previous experience

Some previous experience

No previous experience

What experience and/or skills do you have to implement your plans for working and maintaining the land, including non-agricultural experience and skills? (You should include any relevant qualifications):

Skills and Experience (please tick all that apply)	✓	Length of Practical Experience No experience Less than 1 year 1-5 years More than 5 years	Qualification obtained (if applicable)
Animal husbandry			
Land management			
Horticulture			
Use of and/or repairing farm machinery and equipment			
Other crofting/agricultural skills and experience (Please specify)			
Non-agricultural skills and experience (Please specify)			

What crofting or other training (if any) do you intend to undertake to help you carry out your plans for the croft should the application be approved?

Attend Formal Crofting Course

Learn from Existing Crofter(s)

None

Other Training (specify below):

Do you currently have any other croft or agricultural land?

Yes

No

If **Yes**, please provide details below:

If you have more than 3 crofts or holdings please enter details at Additional Information Section.

Agricultural Code No	Croft or Holding	Croft/Holding Name	Area in Hectares	Any common grazings rights?	Status
					Owner-Occupier Crofter Tenant Subtenant Short Term lease tenant Owner

How do you cultivate or otherwise use this other land?

Crops/Other Cultivation (please specify)	Hectares
Grass: Forage	
Grass: Grazing	
Cereals	
Vegetables	
Soft Fruits	
Apiary/Bee Keeping	
Tree Planting/Use of land as Woodland	
Other Horticulture (Please specify)	

<b>Livestock</b>	<b>Present Number</b>
Sheep	
Cattle	
Poultry	
Pigs	
Other (Please specify)	

Do you currently participate in or intend to take part in any crofting activities?                      Yes                      No

If **Yes**, please provide details below:

<b>Crofting Activity</b>	<b>Already Participate</b>	<b>Intend to Participate</b>
Livestock Gatherings		
Sharing of Machinery		
Crofting Community Projects		
Other (Please specify)		

## SECTION 20

### WIDER INTERESTS

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**i Please refer to Guidance – WIDER INTERESTS**

In deciding the application, the Commission is required to consider the interests of the local crofting community, the sustainable development of the local crofting community, the interests of the public at large, and the interests of the estate (if applicable).

This application will impact on these wider interests by:

<b>List options (please tick all that apply)</b>	<b>✓</b>
Providing employment opportunities within the community	
Utilising the services of local contractors and/or suppliers	
Supporting and using local infrastructure facilities (eg the use of local shops, bus service, community hall, nursery/school)	
Contributing to improvements to the landscape and environment in the locality	
Contributing to the social and cultural benefits associated with crofting	
Supporting tourism in the area	
Bringing wider skills and experience which will benefit the community (eg the proposed crofter and/or family members may be mechanics, builders, teachers, midwives, nurses, vets etc)	
Other (Please specify)	

Please provide details below:

## SECTION 21

### ADDITIONAL INFORMATION

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Please provide any additional information in support of this application that you consider may be helpful to the Commission in reaching its decision:

## SECTION 22

### PROPOSED SUBTENANT/AGENT DECLARATION AND DISCLAIMER

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Proposed subtenant/agent please complete and sign this declaration

#### DECLARATION

I declare that:

To the best of my knowledge, the information I have given in this application is correct.

I am aware of the duties which a crofter is required to comply with relating to residence and land use.

I have read and understood the terms of the Commission's Privacy Policy.

I agree to communication via email regarding this application.

#### DISCLAIMER

All parties involved in any application/notification to the Commission should satisfy themselves as to the identities of the relevant parties involved in an application/notification as the Commission does not have the facility to carry out identity checks to verify a person's identity.

Any person who (i) knowingly provides false or incorrect information including any documentation or other information supplied with this application/notification, and/or (ii) who forges a signature (electronic or physical), may be guilty of a criminal offence. The Commission takes no responsibility for any such fraudulent acts or omissions. However, the Commission may investigate suspected fraud and any declarations, signatures or statements made in connection with the application/notification which the Commission suspects to be fraudulent will be reported to Police Scotland.

By signing this declaration, I acknowledge that I have read, understood, and agree to be bound by these terms and conditions.

Signed

Date

## SECTION 23

### WHAT HAPPENS NEXT

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Once your application has been received the Crofting Commission will send an acknowledgment letter to confirm this.

At the end of the 28 day consultation period we must decide whether or not to grant the application or to investigate further. If we decide to investigate further we will notify all interested parties.

If the application is approved a missive of sublet should be drawn up and completed by both parties. A sample missive is included at section 25 of this form.



## SECTION 24

### APPENDIX – SAMPLE NOTIFICATION FOR SENDING TO LANDLORD

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#### Notice for Landlord/Owner of Common Grazings

#### Proposed Sublet of a Croft/Part of a Croft

I \_\_\_\_\_ (Please print tenant's name)

am applying to the Crofting Commission for consent to sublet my croft/\* part of my croft at

to \_\_\_\_\_ (proposed subtenant's name and address)

for \_\_\_\_\_ years.

If you have any comments, you may submit these in writing to the Crofting Commission, Great Glen House, Leachkin Road, Inverness IV3 8NW or email [info@crofting.gov.scot](mailto:info@crofting.gov.scot)

by

(insert date here giving 28 days from date of publication of newspaper advert).

Please note that any comments received by the Crofting Commission are part of an open process and will be made available to myself and any interested parties. Your comments would also be released under a Freedom of Information enquiry.

\*I attach a map showing the area of the croft to be sublet.

Signed

Date

## SECTION 25

### STANDARD CONDITIONS OF SUBLET (SAMPLE MISSIVE)

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- 1 The rent shall be £ \_\_\_\_\_ per annum, the first year's payment being due at \_\_\_\_\_\*  
(one year from start of sublet) for the year preceding and so forth yearly thereafter for the fixed period of sublet.
- 2 The fixed period of sublet shall be for \_\_\_\_\_ years from \*(date of decision).  
(Condition 3 will be included only where grazing rights are included in the sublet)
- 3 You shall be subject to the Grazings Regulations applicable to the Common Grazing in respect of the share therein included in the sublet.
- 4 This sublet is granted subject to the rights of the proprietor(s) of the croft, whether under the Crofters (Scotland) Act 1993 or otherwise.
- 5 The subtenant shall make such use for agriculture of the land sublet as, having regard to its nature and location, a tenant reasonably skilled in husbandry might be expected to make of it.
- 6 You shall maintain any permanent improvements on the subjects sublet in as good a state of repair as they are in at this date. You shall be entitled to carry out on the subjects sublet such improvements as may be agreed between us in writing.
- 7 I shall give you not less than 6 months' written notice of any intention to assign, exchange or divide the croft and after giving said notice, the sublet shall come to an end on such assignation, exchange or division.
- 8 At termination of the sublet, I shall be obliged to compensate you for any unexhausted value of lime and fertilisers applied during the sublet. The basis of compensation for unexhausted lime and fertilisers will be in accordance with the report in the year of termination of the sublet of the Scottish Standing Committee on Residual Values of Fertilisers calculated net of grant paid to you for land improvement work carried out during the period of the sublet.

I shall further compensate you at waygo for those permanent improvements carried out by you with my consent. The basis of valuation at waygo shall be the value of these improvements to the holding at that time, less the value of any grant-aid paid in respect of these improvements.

#### Optional Conditions

- 9 The croft house site and garden ground are excluded from the subjects hereby sublet to you.
- 10 I reserve to myself and my successors all rights of access to the said croft/croft house.
- 11 I reserve to myself and my successors all peat rights held by me as tenant of the said croft.

**END OF APPLICATION FORM**

## **PUBLIC NOTIFICATION**

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You must advertise your regulatory application in a newspaper. You are responsible for paying for the advert. Failure to follow the guidelines may result in you having to re-advertise your application in a newspaper circulating in the local area. Icon advertising fact sheet (standard)

The advert should appear no earlier than 1 month before the submission of the application and no later than 2 months after the submission of the application.

A standard advert for your use is provided

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. (If unsure who the clerk is please contact the Commission at [RoC online](#))

### **Sample Newspaper Advert**

<b>Proposed Sublet of a Croft/*Part of a Croft</b>	
_____	(Tenant's name)
is applying to sublet the whole croft/*part of the croft at	
_____	(Croft name and parish)
to	
_____	(Proposed subtenant's name)
of	
_____	(Address)
for _____ years	
Written comments from those with a relevant interest (which may be made public) to: Crofting Commission, Great Glen House, Leachkin Road, Inverness IV3 8NW, <a href="mailto:info@crofting.gov.scot">info@crofting.gov.scot</a> within 28 days of the advert.	

## **POLICY PLAN ON SUBLETTING AND SHORT TERM LETTING**

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In considering its decision on this application, the Commission must have regard to the Commission's policies included within its Plan approved by the Scottish Ministers and any other matter which the Commission considers relevant.

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.**

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.

## **CROFTERS DUTIES**

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### **RESIDENCY AND LAND USE**

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

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

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

All crofters are required to comply with a number of statutory duties relating to residency and management of their crofts.

### **WHAT ARE CROFTERS DUTIES?**

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

- Be resident on, or within 32 kilometres (20 miles) of their croft
- 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>
- Not 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).

1 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 has consented to the use if the landlord has withheld their consent.

## **BUILDINGS, FIXED EQUIPMENT AND PERMANENT IMPROVEMENTS**

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Any fixed equipment or permanent improvements e.g. agricultural or domestic buildings which form part of the tenancy will be assigned with the tenancy. If the croft house and garden ground is part of the tenancy of the croft and you wish to retain it, you must decroft and purchase the site prior to submitting the assignation application.

If an advance of purchase decrofting direction has been granted in respect of the croft house site and garden ground or part of the croft, this area will be included in the assignation of the croft tenancy unless it has been purchased from the landlord.

## **WIDER INTERESTS**

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

Section 58A(7)(b)-(e) of 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<sup>1</sup> in the locality of that land;
- (d) the sustainable development of that crofting community;
- (e) the interests of the public at large

### **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.

### **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.

1 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.

### **MAPPING INFORMATION FOR SUBLET AND SHORT TERM LET**

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You will be required to submit a map showing the boundaries of the croft if any of the following apply;

- The croft is not registered on the Registers of Scotland's Crofting Register.
- Only part of the croft is to be let or sublet: The map should show the area of the croft which is to be let or sublet.
- An example map is included in this  [Please refer to Guidance - EXAMPLE MAP.](#)



**EXAMPLE MAP**

