



**CROFTING COMMISSION  
COIMISEAN NA CROITEARACHD**

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# **Application for Consent to be Absent from Croft**

## **Cead a bhith às-làthair**

OFFICE USE ONLY CASE No:

## **IMPORTANT INFORMATION**

The Crofting Commission aims to regulate crofting to promote occupancy of crofts, active land use and shared management by crofters as a means of sustaining and enhancing rural communities (See Appendix 1).

This application form can be completed by tenants and owner-occupier crofters who are seeking the Commission's consent to be absent from their croft. (A crofter is considered absent if they are ordinarily resident more than 32 km (20 miles) from their croft).

Tenants of crofts and/or grazings shares which are deemed to be crofts, must send a copy of this form to their landlord(s) prior to submitting the form to the Commission.

**Please note, an application for consent to be absent only addresses the duty of being ordinarily resident on or within 32 km (20 miles) of the croft. If a crofter is unable to comply with the other duties, an application to sublet (tenant) or an application for a short term lease (owner-occupier crofter) to a person who is able to comply with the duties may be more appropriate.**

It is important that you provide as much relevant information as necessary. If there is insufficient space for answering specific questions, you should continue on an additional sheet of paper, indicating which question you are responding to.

If the application is being submitted by anyone other than the crofter or their Solicitor, the form should be accompanied by written confirmation from the crofter that they have authorised the signatory to act as their agent.

**PLEASE READ THROUGH THE WHOLE FORM AND APPENDIX BEFORE ENTERING ANY INFORMATION. FORMS WHICH ARE INCOMPLETE OR CONTAIN INFORMATION WHICH DOES NOT MATCH THAT CURRENTLY HELD ON THE REGISTER OF CROFTS MAY BE RETURNED AS AN INVALID APPLICATION.**

## 1 Croft Details

Croft:

Parish:

Crofting Commission Register Number

Registers of Scotland

Register Number (where registered):

Main Location

Code: (MLC)

## 2 Crofter Details

Tenant

Owner – Occupier(s)

If joint owners, please supply the names of all parties on a separate sheet.

Surname:

Title:

Forename(s):

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

Main Residential Address:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

I agree to communication regarding this application by e-mail

Yes

No

## 3 Agent Details for Crofter (only if applicable)

Name:

Postal Address:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

I agree to communication regarding this application by e-mail

Yes

No

<sup>1</sup> The 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.

**4 Landlord Details (Additional landlord/owner of common grazings details can be entered at Question 12)**

Name of Organisation/Company/Estate:

Name:

Postal Address:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

I agree to communication regarding this application by e-mail

Yes

No

**5 Agent Details for Landlord (Additional agent details can be entered at Question 12)**

Name:

Postal Address:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

I agree to communication regarding this application by e-mail

Yes

No

# CROFT OCCUPATION

**6** Please give the dates for the commencement and end of your intended period of absence.

Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

(i) Please give the date you intend to be ordinarily resident on the croft \_\_\_\_\_

(ii) Please provide full details of the reasons you are seeking consent to be absent from your croft (see Appendix 1). Supporting documents, i.e. medical certificate, doctor's letters or confirmation of employment contract should be provided where applicable.

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**7** Do you have a habitable house on or within 32 km of the croft?  Yes  No

(i) If 'No', did a house previously exist and, if so, what happened to it?  N/A

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(ii) If 'Yes', has the house site been decrofted?  Yes  No

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(iii) If you have a house on, or within 32 kilometres of the croft, please provide details of how this house is used?

*Please select as appropriate from the selection below*

- long term let
- holiday let
- family use
- other (please provide details below)

(iv) If you intend to have a house built on the croft, has the necessary planning permission been obtained or are you in the process of applying for planning permission?

Planning obtained       Applied for       No

(v) Planning Reference Number \_\_\_\_\_

(vi) Is the new house intended as a residence for yourself?  Yes       No

If "No" please provide details of your intentions for the house

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## **ACTIVE LAND USE**

### **CROFT USE**

**8** (i) if you use the croft yourself, please provide details of cropping activities or stock management which you carry out on the croft.

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(ii) Does the croft have a share in a common grazings?  Yes  No  
If Yes, please provide details of use, including the name of the grazings.

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(iii) Do you claim support under any Government Schemes in respect of your croft land?  Yes  No  
(If Yes, please provide details)

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### **9 CROFT BEING USED BY SOMEONE OTHER THAN CROFTER**

(i) Is the croft being used by someone else in your absence?  Yes  No

(ii) Please provide details of any cropping activities or stock management which this individual carries out on the croft.

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(iii) Does this individual claim support under any Government Schemes in respect of your croft land? i.e. LFASS, SFP (If Yes, please provide details).  Yes  No

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**10** How do you propose that the croft (and grazings share) will be managed in your absence?

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**SHARED MANAGEMENT**

**11** What contribution do you make towards the shared management and support of crofting in your crofting community? (Supporting evidence may be submitted)

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**ADDITIONAL INFORMATION**

**12** Please provide any further information that you consider to be relevant to your situation.

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## 13 DECLARATION

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This application is submitted under section 21B of the Crofters (Scotland) Act 1993 (as amended)

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

*(Applicable to tenants ONLY)*

I confirm that I have sent a copy of this consent to be absent application form to the landlord(s) of the croft.

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Signed

Date

Tenant/Owner-occupier Crofter/Agent

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Signed

Date

Owner-occupier Crofter/Agent

## What Happens Next?

- When we receive this application, we will send you or your agent an acknowledgement letter.
- We will consider the application and make a decision within 28 days of the date of receipt of the application.
- We will then notify you of our decision. If you are a tenant, we will notify the landlord(s) of our decision at the same time. The Commission may grant, grant subject to conditions or refuse the application.
- Our decision can be appealed to the Scottish Land Court within 42 days from the date we notify interested parties of our decision.

# APPENDIX 1

## LEGISLATION

Crofters (Scotland) Act 1993 (ss 21B-21D) as amended by the Crofting Reform (Scotland) Act 2010.

*A crofter or an owner-occupier crofter may apply to the Commission for consent to be ordinarily resident other than on, or within 32 kilometres of, the croft or, as the case may be, the owner-occupied croft.*

*The Commission may grant consent, subject to appropriate conditions, if they consider there is good reason for the person not to be ordinarily resident on or within 32 kilometres of the croft.*

## CROFTING COMMISSION POLICY

The Commission will consider applications for consent to be absent and it recognises that there may be legitimate reasons why a crofter is unable to take up residency on a croft for a reasonable period of time. However, the Commission must be satisfied that there is good reason to be absent and the period of time approved for any absence will depend upon the specific circumstances in each case. Any extension will require a further application. Consent to be absent, if granted, will be subject to conditions and the applicant may be requested to provide evidence that the croft will be cultivated or put to purposeful use during their absence. Indications of good reasons for absence that the Commission may consider include:

- Where there are medical reasons which prevent ordinary residence on or within 32 kilometres of the croft
- Where the crofter is undertaking training or an educational course that requires residency away from the croft for extended periods of time
- Where the crofter may be working away for a contracted period of time
- Where the croft has recently been assigned or purchased and the crofter is unable to take up immediate residence.

Where someone decides to leave the area, they can choose to retain their family croft house by applying for a decrofting direction for the statutory house site, and assign or transfer the croft.

The Commission recognises that there may be reasons why a croft is without a resident crofter. There are a number of options open to tenants or owner-occupier crofters who are unable to meet their residency duty for the time being. The Commission wishes to avoid, if at all possible, terminating croft tenancies or requiring letting proposals. This will always be a last resort after the crofter has had every opportunity to resolve the breach of duty.

# PRIVACY NOTICE

The Crofting Commission acts as the 'Controller' of the personal data you provide us with when you complete a Residency and Land Use Team form. Under the Crofters (Scotland) Act 1993 we are obliged to collect this information in order to facilitate the processing of your Residency and Land Use form. Please note that the Commission will be unable to process your form 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 proposed tenant
- The landlord of the croft
- The owner of the common grazings
- The area assessor
- 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 may 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).



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