

## Resumption

***Resumption allows the landlord of tenanted croft land or common grazings to apply to the Scottish Land Court for consent to remove part or all of it from crofting tenure and to be out with the control of the Crofting Acts.***

### LAW

Crofters (Scotland) Act 1993 section 20

*The Land Court may, on the application of the landlord and on being satisfied that he requires to resume the croft<sup>1</sup>, or part thereof, for some reasonable purpose having relation to the good of the croft or of the estate or to the public interest or the interests of the crofting community in the locality of the croft, authorise the resumption thereof by the landlord upon such terms and conditions as it may think fit....* **Section 20(1).**

*A landlord making application under subsection 20(1) must give notice of it to the Commission; and the Commission may, if they think fit, oppose, or support the application...* **Section 20(1A).**

### POLICY

Crofting Commission Policy Plan 2022

#### **Policy on resumption applications and schemes for development (Paragraph 67)**

*The Scottish Land Court has responsibility for dealing with resumption and scheme for development applications, but the Crofting Commission is entitled to object to, or support, such an application. The policy of the Commission is that it will consider objecting to such applications where, for instance, it considers that the area applied for is unreasonable in relation to the proposed purpose or where it considers that it is unnecessary to remove the area of land applied for, or part of it, from crofting tenure.*

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<sup>1</sup> These provisions apply to a common grazings or part of a common grazings as they do to a croft or part of a croft.

## PROCEDURE

- (1) An application by a landlord of a tenanted croft or part of a croft for an order that the land shall cease to be a croft or part of a croft, shall be made on the appropriate form provided by the Land Court.
- (2) Where an application is to resume all or part of a tenanted croft and the croft is **unregistered**, the Land Court may not authorise the resumption unless an application for first registration of the croft is submitted to the Commission within 6 months, beginning with the date on which the application for resumption was made.
- (3) On receipt of a copy of an application on the said form from either the applicant or the Land Court, the Commission will first establish that the application is accompanied by a plan. If it is not accompanied by a plan, the Commission will seek a copy of the plan from either the applicant or the Land Court.
- (4) Once the Commission is in receipt of a copy of the application with an accompanying plan, the Commission will consider whether to oppose or support the application. The Commission will not normally respond to notification of a resumption application unless it has regulatory concerns, in which case it may oppose the application as it considers appropriate. In considering whether to oppose the application the Commission will wish to safeguard access to other parts of the croft; it will also take into account the effect of the proposal on:
  - the sustainability of crofting in the locality of the croft or relevant area;
  - the sustainability of the crofting community, the landscape and the environment;
  - the social and cultural benefits associated with crofting.
- (5) If the Commission, after carrying out the above considerations, determines to oppose the application, it will write to the Court setting out their reasons for doing so within the timescale set by the Court (generally 28 days). If required the Commission will seek an extension from the Court if further time is required to determine whether to oppose the application.
- (6) If the Land Court **refuse** the application, no further action is undertaken by the Commission.

- (7) If the Land Court **approve** the application and it relates to a **first registered croft** –
- (i) **The landlord** must, within 3 months of the date of the order authorising resumption, notify the Commission that the change has taken effect.
  - (ii) As soon as reasonably practicable after this, **the Commission** must notify the Keeper of the Registers of Scotland of the change.
- (8) If the Land Court **approve** the application and it relates to a **registered croft** (other than a first registered croft) or a **registered common grazings** –
- (i) the order authorising resumption expires at the end of 3 months, beginning with the date on which the order is made, unless an application for registration of the resumption is submitted by **the landlord** to the Commission for forwarding to Keeper of the Registers of Scotland before the expiry of this period;
  - (ii) the resumption takes effect on the date of its registration.