

Commission Letting of a Vacant Croft

The Commission takes on the letting of a vacant croft where the landlord has failed to submit proposals or any submitted proposals have not been accepted.

LAW

Crofters (Scotland) Act 1993, section 23

*... where a croft is vacant the Commission may, at any time after the expiry of one month from the occurrence of the vacancy, give notice to the landlord requiring him to submit to them, before the expiry of the period of 2 months beginning with the day on which the notice is given, his proposals for re-letting the croft, whether as a separate croft or as an enlargement of another croft. **Section 23(5)***

*No more than three proposals may be submitted to the Commission in response to a notice given under subsection 5. **Section 23(5ZA)***

The Commission must (as soon as is reasonably practicable) proceed in accordance with subsection (5B) and (5C) if –

- (a) no proposals for letting the croft are submitted by the landlord before the expiry of the period of 2 months mentioned in subsection (5)*

- (b) the landlord has submitted one or two proposals for letting the croft within the period of 2 months mentioned in subsection (5) and –*
 - (i) all such proposals are rejected by the Commission; and*
 - (ii) the period of 2 months mentioned in subsection (5) has expired; or*

- (c) *the landlord has submitted three proposals for letting the croft (within the period of 2 months mentioned in subsection (5)) and the Commission have rejected all three. **Section 23 (5ZC)***

*The Commission shall by public notification, invite applications for tenancy of the croft within such period as shall be specified in the notification. **Section 23(5B)***

When that period has elapsed, the Commission shall determine –

- (a) *to which of the applicants (if any,) to let the croft; and*
(b) *in consultation with the landlord, on what terms and conditions. **Section 23(5C)***

POLICY

Crofting Commission Policy Plan on Vacant Crofts

Where the landlord fails to re-let the croft and the Commission takes over the letting process, it will adopt its own letting requirements. In so doing, the Commission will seek to ensure that any tenant has the requisite skills and attributes to manage a croft. It is also important that the tenant will normally reside within the specific crofting community and contribute to the management of its resources and to the sustainability of that crofting community. The Commission will endeavour to introduce suitable new entrants to crofting and, in doing so, help to retain and sustain population in crofting areas.

PROCEDURE

- (1) Where a croft (or part of a croft) is vacant the Commission may, at any time after the expiry of one month from the occurrence of the vacancy, give written notice to the landlord requiring him to submit proposals to the Commission for re-letting the croft (or part of a croft), whether as a separate croft or an enlargement of another croft, within 2 months of the date of the notice.

- (2) However if either:
- (i) no proposals are submitted; or
 - (ii) the landlord has submitted proposals¹ which the Commission has rejected.

then the Commission shall take over the letting process.

- (3) The Commission shall, by public notification², invite applications for the tenancy of the croft within 28 days of the date of the notice (or any alternative time period set out in the notification).³
- (4) When the 28 day period (or any alternative) set out in the public notification has elapsed, the Commission will consider all the information available, taking particular account of its specific policy on letting.

***N.B.** If no applications are received or none are considered suitable, after an initial sift, wider advertising may be considered appropriate. A report prepared on the croft which will form the basis for assessing the terms and conditions on which the croft will be let and also for assessing the suitability of applicants' proposals.*

- (5) Where there are applicants, the Commission shall determine:
- (i) to which of the applicants it will let the croft to, if any are suitable, and
 - (ii) in consultation with the landlord, the terms and conditions of let.⁴
- (6) Where the croft has been let on terms and conditions fixed by the Commission, the **landlord** may within 28 days from the date of the letting apply to the Land Court for a variation of the terms and conditions so fixed, and any variation made by the Court shall have effect from the date of the letting.

¹ No more than three proposals may be submitted to the Commission in response to a notice.

² For information on public notification refer to separate Rules of Procedure on *Public Notification*

³ Section 23(5B) of the Crofters (Scotland) Act 1993 refers

⁴ The Commission will include the registration of the croft (where it relates to an unregistered croft) or registration of the letting (where it relates to a registered croft) in the conditions of let

- (7) If the letting relates to an **unregistered croft**, the letting will take effect on a date agreed by the Commission and the new tenant. However, the letting is null and void unless an application by the **new tenant** for first registration is submitted to the Commission for forwarding to the Keeper of the Registers of Scotland within 3 months of the date of letting.
- (8) If the letting relates to a **registered croft** –
- (i) any approval of the Commission expires at the end of 3 months beginning with the date on which approval was given, unless an application for registration of the letting of the croft (or part of the croft) is submitted by the **new tenant** to the Commission for forwarding to the Keeper of the Registers of Scotland before the expiry of that period.
 - (ii) the letting of the croft (or part of the croft) takes effect on the date of registration.