

Decrofting (HS&GG) Di-chroiteadh (HS&GG)

DELEGATED DECISION MAKING AND ESCALATING CASES

The applicant must ensure that the site applied for consists only of the dwellinghouse on the croft and an area of garden ground appropriate for reasonable enjoyment of the dwellinghouse as a residence. In addition, the house must be wind and watertight and the applicant must not previously have decrofted a house site from the croft under the statutory dwelling house provisions.

Important note for applications by tenants in advance of purchase: The Crofter's Act provides that a tenant shall be entitled to a conveyance of the site of the dwelling-house on the croft he/she tenants. Therefore, the Commission strongly encourage applicants to agree with their landlord the extent and boundaries of the area applied for, before submitting the application so that it reflects the site they are entitled to purchase under the dwelling-house provisions.

Where an application complies with the published Commission policy and delegation parameters; a decision to decroft the croft house site and garden ground may be taken by the Casework Officer at Tier One level of the Commission's Scheme of Delegation.

Cases which do not meet these guidelines, generally, require us to collect further information e.g. by obtaining a SGRPID report. As a result, these cases will tend to take longer for the Commission to consider. In addition, it is likely that the case will be escalated to a panel of senior officials at Tier Two who may approve the application, modify the extent of the area to be decrofted, or refuse the application. In certain circumstances a case may be escalated to the full board of Commissioners to decide the case.

Applications to Commission to decroft the croft house site and garden ground are generally escalated to Tier Two due to the failure to comply with one or more of the following:

1. **Ensuring the size of the area is appropriate for the reasonable enjoyment of the dwelling house as a residence.**

Policy	Tier One Parameter
The Commission's Policy Plan states at paragraph 27 that: "The Commission aims to protect land from being removed from crofting tenure. A decrofting direction irrevocably removes the land subject to the application from crofting tenure."	The parameters for delegation require that: Any application where the combined area of dwelling house and garden ground is in excess of 0.40 (ha) should be escalated...

2. Buildings located within area applied for

Legislation	Tier One Parameter
<p>The Commission is required to give a decrofting direction under section 25(1)(b) of the Crofters (Scotland) Act 1993 where it is satisfied “the application is made in respect of part of a croft which consists only of the site of the dwellinghouse...”</p> <p>The Commission recognises that there may be circumstances where other buildings are included within the area applied for that are either contiguous or are located very close to the dwellinghouse and are incidental to and directly associated with or servicing the domestic house.</p>	<p>The parameters for delegation require that:</p> <p>If there are any additional buildings included within the site and these are being used or are capable of being used as agricultural buildings equipping the croft, the application should be escalated...</p>

3. Ensuring adequate access to the croft remains

Policy	Tier One Parameter
<p>The Commission’s Policy Plan states at paragraph 64 that:</p> <p>“The Commission will scrutinise applications where it is proposed that an existing access from the public road will no longer be available to croft land or common grazings or where a new access is proposed from a public road that may not be suitable.”</p>	<p>The parameters for delegation require that:</p> <p>Any application where the access is included in the application but either no or inadequate access has been identified should be escalated...</p>



Gheibhear tuilleadh
foisrachaidh Di-chroiteadh
air ar làrach-lìn
[www. Coimisean na Croitearachd](http://www.Coimisean na Croitearachd)

You can find more
information on Decrofting
on our website:
www.crofting.scotland.gov.uk

A full list of the delegated decision making parameters for decrofting applications can be viewed on our website www.crofting.scotland.gov.uk/decrofting.

During the course of the processing of a case, an applicant will generally be given the opportunity to modify their application to comply with the foregoing policy guidelines and delegation parameters.

If an applicant proposes such a modification, the case could still be dealt with at the Tier One level of decision making. However, it should be noted that modification of any application will not guarantee that the Crofting Commission will approve the application.

If a modification is not proposed, the Commission will process the case on the applicant's understanding that it will be subject to escalation and potential refusal. Although, the Commission will consider every application on its own circumstances and the evidence gathered during the processing of the case.

**This factsheet is intended for general guidance only and is not intended to constitute legal advice.
For advice on your own particular circumstances, we recommend you seek independent legal advice.**