



**CROFTING COMMISSION
COIMISEAN NA CROITEARACHD**

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Decrofting Application Croft House and Garden Ground Guidance Notes

Stiùireadh Di-chroiteadh HSGG



Decrofting is the term used when land is removed from crofting tenure.

1. REQUIREMENT TO REGISTER YOUR CROFT LAND

Submitting a decrofting application triggers the requirement to register your croft land in the Crofting Register held by the Keeper of the Registers of Scotland.

The Crofting Register is map based and provides a definitive record of the extent of, and interest in, land within crofting tenure in Scotland. In addition to showing the boundaries of land, the register also contains information on the crofter, owner-occupier crofter and/or the landlord of the registered croft. The Crofting Register is maintained by the Keeper of the Registers of Scotland, although the application for registration is made in the first instance to the Crofting Commission who will check the information contained in or accompanying the registration application against the information contained in the Commission's Register of Crofts.

If your croft is unregistered, the Commission will be unable to make a decision on your decrofting application until the croft has been registered with the Keeper of the Registers of Scotland. To avoid delays therefore, we recommend that your decrofting application should be accompanied by your application to register the croft on the Crofting Register (ROS Form A). This must be accompanied by a map showing the boundaries of the croft along with the registration fee.

A copy of the registration form and accompanying guidance notes can be found at www.ros.gov.uk/services/registration/crofting-register. If an application to register is not submitted within 6 months of the date of receipt of this application, the application to decroft will be withdrawn from our records and returned to you.

If your croft is already registered with the Keeper of the Registers of Scotland, an application for Registration of a Subsequent Event (ROS Form B) will be required should your decrofting application be approved. The Form B should not be submitted until after the Regulatory decision has been intimated.

2. IMPORTANT INFORMATION

Before you submit an application please check your details on the Commission's Register of Crofts <http://www.crofting.scotland.gov.uk/register-of-crofts-roc>

It is the Commission's understanding that there is no statutory provision contained in the Crofters (Scotland) Act 1993 which would enable an Executor to submit a decrofting application. This is consistent with our understanding that the role of an executor is to administer and distribute the estate belonging to the deceased at the date of death i.e. prior to any decrofting. It will of course be open to a successor to apply for a decrofting direction, should they choose to do so, once the succession to the tenancy/ ownership has been resolved.

If the croft house site is jointly owned, details of all owners must be provided and all owners must sign the declaration at the end of the application.

If you have not previously advised us of your purchase of the croft land, please complete a 'Change of Ownership' form and any required Registration Form and submit it along with this application. You can access the form on www.crofting.scotland.gov.uk.

If the application is being submitted by anyone other than the applicant, their Solicitor or Professional Agent the form must be signed by the applicant at 3A or accompanied by written confirmation from the applicant that they authorise the signatory to act as their agent.

We must make a decrofting direction where the application relates to the croft house site, within the meaning of section 25(1)(b) of the Crofters (Scotland) Act 1993, and we are satisfied that the extent of any garden ground within the site is appropriate for the reasonable enjoyment of the dwellinghouse as a residence.

We will take into account the extent of the area that has been, or is to be, granted in the Title to the croft house site. Where you own the whole of the croft, we will consider what extent of land can readily be identified as being the existing garden ground within the area applied for. However, we reserve the right to modify your application and to reduce the extent of the site (unless it has already been fixed by the Scottish Land Court).

The house you are applying to decroft must be wind and watertight and fit for human habitation as a residence. If not, it will be necessary for you to apply to decroft the site as a part croft and complete the appropriate application form.

Applications made in respect of the statutory house site must be for one dwelling house. Any associated domestic structure e.g. a garage will normally be considered as part of the croft house site and garden ground application. Any additional land or buildings must be applied for using the "Decrofting Application Part Croft" application form.

For tenant applicants only:

If there is more than one dwellinghouse on the croft, it is for the crofter and landlord to decide which dwellinghouse is the statutory house site. The Act requires you to give written notice of this type of application to your landlord and we are not required to advertise it. In order to confirm you have done this could you please provide one of the following:

1. Arrange for the notice at Appendix 2A in the application form to be completed and signed by the landlord
2. A letter confirming receipt of notification from your landlord OR
3. A copy of your posting receipt as evidence of notification having been sent by Registered Post/ Recorded Delivery to your landlord

You should also provide the landlord with copies of the required maps of the site (please see the Mapping Information section for more detail). If you are a tenant and your application is approved, we will issue an '**Advance of Purchase**' decrofting direction. This means that to effect the direction you or your nominee must purchase the area approved within 5 years of the date of that direction and fulfill any registration requirements. The Commission must also be notified within 3 months of the purchase.

This is a statutory time limit, which we cannot extend or modify.

If the house site sits within the Common Grazing, the area applied for Common Grazing land must be fully apportioned i.e. it must have a final order of apportionment issued under Section 52(4) of the Crofters (Scotland) Act 1993, before a decrofting application can be considered.

3. APPLICATION DETAILS

In considering its decision on this application, the Commission will give regard to the size of the area applied for and whether this is appropriate for the reasonable enjoyment of the dwelling house as a residence and is not excessive. The Commission will also take account of the size of the croft, the quality of the proposed area of land and its location within the croft, in line with Sections 24(3), 24(A) and 25 of the Crofters (Scotland) Act 1993 and the decrofting section of the Crofting Commission's Policy Plan.

We would not normally decroft any agricultural building when issuing a Direction for a house site and garden ground. When applying for a house site and garden ground decrofting direction, the site will be limited to one house.

4. ACCESS

The Commission will give priority to the provision of appropriate access to **all** remaining parts of the croft and, where appropriate, the common grazing. The provision should allow unrestricted access at all times including access for agricultural machinery (the recommended minimum width for access is 4 metres wide). Failure to meet this provision is likely to result in the application being modified or may include in any such direction conditions for the purpose of ensuring that implementation of the proposal would not prevent or impede access to another part of the croft or to other croft land.

Your site map must show all existing access routes to the croft **as well as** any proposed access provision. Please provide as much information as possible of the current or proposed access provision at question 11 in the application form including details such as width, gates, condition and any consents obtained or that may be required together with supporting evidence.

5. MAPPING INFORMATION

Your decrofting application must be accompanied by a site map of the area being applied to decroft. Please refer to the example plan (Appendix 1) for further details of requirements.

6. POLICY PLAN

The Act requires the Commission to make a decrofting direction where the application relates to the croft house site and it is satisfied that the extent of any garden ground within the site is appropriate for the reasonable enjoyment of the dwellinghouse as a residence. When issuing a house site and garden ground decrofting direction, the site will be limited to one. A site can only be a statutory house site and garden ground where there is an existing wind and watertight dwellinghouse on the croft.

If you intend to decroft an area of the croft to provide a site for a dwelling house, the application should be made using the appropriate Decrofting Application Part Croft form.

The Commission will only approve applications where it is satisfied that the size of the area is acceptable (having regard, where appropriate, to the average size of house sites in the locality) and that adequate access to the croft remains. Account will also be taken of the size of the croft, the quality of the proposed area of land and its location within the croft.

Appendix 1 Example Site Map

-  Proposed decrofting
-  Vehicle access (within croft)

MAP FOR EXAMPLE PURPOSES ONLY

10. An up to date Ordnance Survey map should provide sufficient surrounding detail (e.g. fences, rivers, buildings).

9. Access: Vehicle access should be shown to the remainder of the croft and any adjacent croft land.

8. Appropriate map scale.

7. Scale bar and text.

6. North arrow.

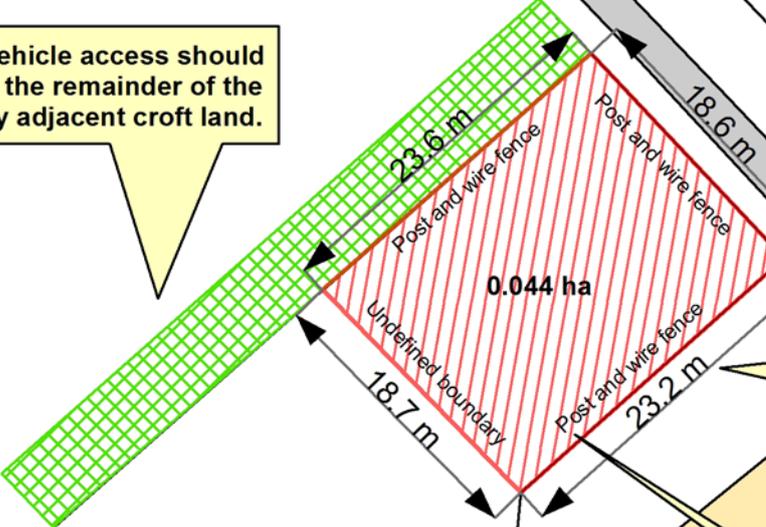
5. Map Coordinate: For the middle of the site. These can be either Eastings & Northings or national grid six figure format (e.g. NG 033 836).

1. Area to be decrofted: The boundaries of the area proposed to be decrofted should be clearly shown.

2. Extent of the area to be decrofted should be clearly stated in hectares to 3 decimal places.

3. Dimensions should be provided for each boundary in metres, to 1 decimal place.

4. Boundary descriptions should be provided



Scale: 1:500

Eastings: 103,395
Northings: 883,721

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Crofting Commission.



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