



**CROFTING COMMISSION
COIMISEAN NA CROITEARACHD**

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Application for Commission Consent to Assign a Croft Tenancy

Tagradh airson Cead a' Choimisein gu Gabhaltas Croite a Shònrrachadh

This document comprises the application form at pages 1-36 and guidance notes at pages 37-42. There is no requirement to submit the guidance notes.

SECTION 1

WHAT IS AN ASSIGNATION?

Assignment is the term used to describe the transfer, with Crofting Commission consent, of a croft tenancy from you as the crofter, referred to as the 'assignor' or 'current tenant', to a person of your choice referred to as the 'assignee' or 'proposed new tenant'. This will be referred to from this point as your "Regulatory application".

This application form is for the assignation of the whole of your tenancy, if you wish to assign just the grazing share(s) please complete the Assignment – Grazings Share(s) application form. If you wish to retain part of your croft that has not been decrofted and/or purchased, you should first apply to divide the tenancy.

If the croft is currently sublet, you must give your subtenant 6 months written notice of your intention to assign the tenancy before submitting this application. (Refer to the Missive of Sublet).

Any fixed equipment or permanent improvements e.g. agricultural or domestic buildings which form part of the tenancy will be assigned with the tenancy. If the croft house and garden ground is part of the tenancy of the croft and you wish to retain it, you must decroft and purchase the site prior to submitting the assignation application.

If an advance of purchase decrofting direction has been granted in respect of the croft house site and garden ground or part of the croft, this area will be included in the assignation of the croft tenancy unless it has been purchased from the landlord.

SECTION 2

PRIVACY POLICY

The Crofting Commission acts as the 'Controller' of the personal data you provide us with when you complete a Regulatory Application. Under the Crofters (Scotland) Act ("The 1993 Act") we are obliged to collect this information in order to facilitate the processing of your application. Please note that the Commission will be unable to process your application 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 tenant / owner-occupier crofter / landlord of a vacant croft
- The proposed tenant / subtenant
- The landlord of the croft
- The owner of the common grazings
- The area assessor
- The grazings committee
- The owner of any adjacent non-croft land
- The occupier of any adjacent non-croft land
- 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 will 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. Further details on the Crofting Commission's Data Protection Policy can be found at 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. For details of how to complain to the Information Commissioner, please visit www.ico.org.uk.

Please tick this box to confirm you have read and understood the Crofting Commission's Privacy Policy

SECTION 3

PRE-APPLICATION CHECKLIST

What do I need to do before I apply?

Check if you are a tenant. Find out via the Register of Crofts (www.crofting.scotland.gov.uk/register-of-crofts)

- 1) **Make arrangements for your application to be advertised.** You will require to advertise the regulatory application and provide the Commission with details of the name of the newspaper and the date the advert will appear. **i Please refer to guidance section – PUBLIC NOTIFICATION**
- 2) **Notify your landlord of the application in writing.** If your regulatory application includes a share in a common grazings, you must also give written notification to the owner(s) of the common grazings.¹ **i Please refer to Appendix – Sample Notification for sending to Landlord**
- 3) **Check if the croft has already been registered on the Registers of Scotland Crofting Register.** If the croft is not yet registered, you must also apply to register the croft. Ideally your first registration application (RoS Form A) should be made to the Commission at the same time as you make this application.
i Please refer to guidance section – REQUIREMENT TO REGISTER YOUR CROFT LAND
- 4) **Requirement to Provide Mandate Agent Authorisation Form** If you are not a solicitor or professional agent (Crofting/Rural Consultant or Adviser) you and the applicant must separately complete a **Mandate Agent Authorisation Form** which will enable you to act on the applicant's behalf. This form can be found on the Commission Website here: www.crofting.scotland.gov.uk/agency-and-mandate

HOW DO I APPLY?

- Online Application (**Recommended**) This application can be completed and submitted through the Online Application Portal on our website here: <https://account.crofting.scotland.gov.uk/>
 - Upload this PDF via the Online Portal: <https://account.crofting.scotland.gov.uk/>
 - Print and post this application to us. If you are printing this application to submit to us via post there is no need to print the guidance section.
- 1 You are legally required by the 1993 Act to give written notice to your landlord (and if your application includes grazings share(s), the owners of the common grazings) of this application.

SECTION 4

IMPORTANT INFORMATION

It is important that you provide us with as much information as possible. This will help to prevent delays resulting from us having to contact you to obtain additional information. It will also help the Commission arrive at a fully informed decision on this regulatory application.

However please avoid, where possible, providing sensitive personal information either in the regulatory application itself or as supporting documentation e.g. detailed medical information. For further information, please refer to the terms of the Commission's Privacy Policy.

Policy Plan: Before completing the form you should read the extract from the Commission's Policy Plan in relation to your application  **Please refer to guidance section – POLICY PLAN**

Delegated Decision Making: The Commission operate a model of Delegated Decision Making, with officers able to approve straightforward cases that meet all the legislative, policy and parameter requirements. Parameters are set by the Commission for each regulatory function so that they can be considered under the delegated decision making process. For further information please follow this link: <https://www.crofting.scotland.gov.uk/forms-and-guidance>

Before completing the form you should read the delegation parameters relating to your regulatory application at the following link: <https://www.crofting.scotland.gov.uk/assigntation>

SECTION 5

WHO IS APPLYING?

Tenant

Legal Guardian of the applicant¹

(Enter Guardian's Name and Address in Additional Information Section)

Holder of Power of Attorney²

(Enter Power of Attorney's Name and Address in Additional Information Section)

Accountant in Bankruptcy³

(Enter Accountant in Bankruptcy's Name and Address in Additional Information Section)

- 1 Legal Guardian of the applicant – A child under the age of 16 years must be represented by a Legal Guardian (usually a parent). Legal Guardians may also be appointed by Order of a Court following an application under the Adults with Incapacity (Scotland) Act 2000, authorising them to act and make decisions on behalf of an adult (anyone over the age of 16 years) with incapacity. If you are applying as the legal Guardian for an adult, you will need to provide us with a copy of the Court Order or other documentation which has authorised you to act in this capacity.
- 2 Holder of Power of Attorney – There are 2 different types of Power of Attorney (PoA). One allows a person (“the grantor”) to appoint one or more people to make decisions on their behalf, should they be unable to do so in the future. The PoA document can cover both “continuing” (in other words, financial and property) powers and welfare powers and needs to be registered with the Office of the Public Guardian (Scotland). The other is a legal document, usually drawn up by a solicitor, which gives an individual a usually time-limited and specific power to do certain tasks such as to sign a legal document on their behalf. You will need to provide us with a copy of the PoA document.
- 3 Accountant in Bankruptcy – The Accountant in Bankruptcy (AiB) is an Executive Agency of the Scottish Government responsible for administering the process of personal bankruptcy and corporate insolvency, administering the Debt Arrangement Scheme, and implementing, monitoring and reviewing government policy in these and related areas, for example protected trust deeds and diligence.

Agent Details (if applicable)

I am completing this application in my capacity as:

Solicitor for the applicant

Professional Agent for the applicant⁴

Non Professional Agent for the applicant⁵

Name:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

4 Professional Agent for the applicant – Crofting/Rural Consultant or Adviser.

5 An individual who has been authorised by the applicant to act on their behalf who is neither a Solicitor nor a professional agent, examples could be a family member, friend, carer etc.

I confirm that I am authorised to act as agent for the applicant in relation to their application.

I confirm that, as agent, I am not a direct beneficiary of the application.

I understand this authorisation is only valid while the application is under consideration and will end when the application is concluded.

Important: If you are not a solicitor or professional agent (Crofting/Rural Consultant or Adviser) you and the applicant must separately complete a Mandate Agent Authorisation Form which will enable you to act on the applicants behalf.

SECTION 6

CROFT DETAILS

All fields must be completed

Croft:

Township:

Parish:

Crofting Commission Register of Crofts Number:

Registers of Scotland Registration Number
(where registered):

SECTION 7

TENANT DETAILS

Title:

Surname:

Forename(s):

Date of Birth¹:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

Residency

Do you currently reside on or within 32 kilometres (20 miles) of the croft?

Yes

No

¹ The 1993 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.

SECTION 8

LANDLORD OF CROFT DETAILS

Name of Organisation/Company/Estate:

Title:

Surname:

Forename(s):

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

If you have more than one landlord, please enter the details in Additional Information Section.

OWNER OF COMMON GRAZINGS DETAILS

Name of Organisation/Company/Estate:

Title:

Surname:

Forename(s):

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

If there is more than one owner of Common Grazings, please enter the details in Additional Information Section.

AGENT DETAILS FOR LANDLORD/OWNER OF COMMON GRAZINGS (only if applicable)

Name:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

If you have more than one agent, please enter the details in Additional Information Section.

SECTION 9

WHO IS THE CROFT BEING ASSIGNED TO?

Title:

Surname:

Forename(s):

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Please refer to Guidance section – CROFTERS DUTIES

Will the proposed new tenant be ordinarily resident on or within 32 kilometres (20 miles) of the croft, should the Commission approve the application?

Yes

No

SECTION 10

LAND USE

The Commission require to know how the croft is currently being used.

Is the croft currently being used for cropping activities?

Yes

No

If Yes, please provide details below:

Crops (please tick all that apply)	<input checked="" type="checkbox"/>	Hectares
Grass: Forage		
Grass: Grazing		
Cereals		
Vegetables		
Soft Fruits		
Apiary/Bee Keeping		
Tree Planting/Use of land as Woodland		
Other (Please specify)		

Is the croft currently being used for stock management purposes?

Yes

No

If Yes, please provide details below:

Livestock (please tick all that apply)	<input checked="" type="checkbox"/>	Number
Sheep		
Cattle		
Poultry		
Pigs		
Other (Please specify)		

Do you put the croft to a purposeful use other than cultivation?

Yes

If **Yes**, please provide details below:

No

Purposeful Use (please tick all that apply)	<input checked="" type="checkbox"/>
Tourist Accommodation Development	
Other Tourism Development	
Renewable Energy (eg wind turbines)	
Horse Livery	
Other (Please specify)	

SECTION 11

BUILDINGS

Are there any buildings on the croft?

Yes No

If Yes, please provide details below:

Type of Building	Age	Condition (indicate whether):	Currently used?	Comments
House (not decrofted)	<5 years	Good	<input type="checkbox"/>	
Domestic garage	5-10 years	Moderate	<input type="checkbox"/>	
Domestic shed/outbuilding	11-20 years	Poor	<input type="checkbox"/>	
Agricultural/General purpose	20+ years	Derelict	<input type="checkbox"/>	
Livestock Housing				
Other (Specify)				

Further information:

SECTION 12

FIXED EQUIPMENT AND PERMANENT IMPROVEMENTS

Is there any fixed equipment on the croft?

Yes

No

If Yes, please provide details below:

Type	Age	Condition (indicate whether):	Comments
Fences	<5 years	Serviceable	
Ditches	5-10 years	Partially Serviceable	
Fanks	11-20 years	Not Serviceable	
Pens	20> years		
Other (Specify)			

Further information:

SECTION 13

ADDITIONAL INFORMATION

Please provide any additional information in support of your application that you consider may be helpful to the Commission in reaching its decision:

SECTION 14

PUBLIC NOTIFICATION

Please refer to Guidance – PUBLIC NOTIFICATION

Please give details of the public notification arrangements you have made below:

- (i) Name of newspaper displaying the advert:
- (ii) The date the advert will be displayed in newspaper¹:

A standard advert for your use is included in the guidance notes.

¹ This should be no earlier than 1 month before the submission of the application and no later than 2 months after the submission of the application.

APPLICANT/AGENT DECLARATION AND DISCLAIMER

Applicant/agent please complete and sign this declaration

I confirm that I have carried out the following in connection with this regulatory application:

I have given the croft landlord(s)/owner(s) of common grazings written notification of this regulatory application.

I have advertised this regulatory application in a newspaper circulating in the local area.

Where the croft is sublet, I have given the subtenant 6 months notice of this regulatory application.

Where the croft is not registered with the Registers of Scotland, I have separately applied to register the croft.

Where the application is being submitted by a non-professional agent, a completed Mandate Agent Authorisation Form has been included with this application

I have read and understood the Commission's Privacy Policy.

I agree to communication regarding this regulatory application by email.

DISCLAIMER

All parties involved in any application/notification to the Commission should satisfy themselves as to the identities of the relevant parties involved in an application/notification as the Commission does not have the facility to carry out identity checks to verify a person's identity.

Any person who (i) knowingly provides false or incorrect information including any documentation or other information supplied with this application/notification, and/or (ii) who forges a signature (electronic or physical), may be guilty of a criminal offence. The Commission takes no responsibility for any such fraudulent acts or omissions. However, the Commission may investigate suspected fraud and any declarations, signatures or statements made in connection with the application/notification which the Commission suspects to be fraudulent will be reported to Police Scotland.

By signing this declaration, I acknowledge that I have read, understood, and agree to be bound by these terms and conditions.

DECLARATION

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

Signed

Date

SECTION 16

PROPOSED TENANT DETAILS

ALL FIELDS MUST BE COMPLETED

Title:

Surname:

Forename(s):

Date of Birth¹:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

¹ The 1993 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.

Agent for Proposed Tenant (if applicable)

Name:

Postal Address Line 1:

Address Line 2:

Address Line 3:

Address Line 4:

Address Line 5:

Address Line 6:

Postcode:

Telephone:

Alternative Telephone:

E-mail Address:

I agree to communication regarding this application by email

Yes

No

I confirm that I am authorised to act as agent for the applicant in relation to their application.

I confirm that, as agent, I am not a direct beneficiary of the application.

I understand this authorisation is only valid while the application is under consideration and will end when the application is concluded.

Important: If you are not a solicitor or professional agent (Crofting/Rural Consultant or Adviser) you and the applicant must separately complete a Mandate Agent Authorisation Form which will enable you to act on the applicants behalf.

SECTION 17

PROPOSED RESIDENCY INFORMATION

ⓘ Please refer to Guidance section – CROFTERS DUTIES

Does the proposed tenant currently reside on or within 32 kilometres (20 miles) of the croft?

Yes

No

If **Yes**, go to **PROPOSED LAND USE** section.

If **No**, what is the proposed tenant's anticipated timescale for taking up residence:

Within 6 Months

6-18 Months

Longer than 18 Months

If the proposed tenant does not intend to take up residence for 18 months or longer, please specify the timescale and provide reasons below:

Timescale for taking up residence if longer than 18 months:

Reason(s) for delay in taking up residence (please tick all that apply)	<input checked="" type="checkbox"/>
Current Employment	
Approaching Retirement	
Education (Own)	
Education (Children)	
Armed Forces Service	
No/Inadequate Housing on Croft	
Other reason (Please specify)	

Is there a habitable house on or in the locality of the croft in which you intend to reside? Yes No
If **Yes**, where is this located:

On croft In township Other location within 32 kms of croft

Do you intend to build a new dwellinghouse for yourself on the croft? Yes No
If **Yes**:

Has planning permission been obtained or are you in the process of applying for planning permission?

Planning obtained Applied for Not yet applied for

Planning Reference Number:

Will any other person reside on the croft prior to you taking up residence? Yes No

If **Yes**, please provide details:

Who will reside on the croft? (please tick all that apply)	<input checked="" type="checkbox"/>
Spouse/Partner	
Child/Children	
Parent	
Other Family Member	
Other (Please specify)	

Will the croft be cultivated and maintained until you take up residence? Yes No

If **Yes**, please provide details:

Who will cultivate and maintain the croft? (please tick all that apply)	<input checked="" type="checkbox"/>
You	
Spouse/Partner	
Adult Child/Parent	
Other Family Member	
Neighbouring Crofter	
Other (Please specify)	

SECTION 18

PROPOSED LAND USE INFORMATION

ⓘ Please refer to Guidance – CROFTERS DUTIES

Do you intend to cultivate the croft?

Yes

No

If Yes, please provide details below:

Crops/Proposed Cultivation (please tick all that apply)	<input checked="" type="checkbox"/>	Hectares
Grass: Forage		
Grass: Grazing		
Cereals		
Vegetables		
Soft Fruits		
Apiary/Bee Keeping		
Tree Planting/Use of land as Woodland		
Other (Please specify)		

Livestock (please list all that apply) Eg. Sheep • Cattle • Poultry • Pigs	Number	Timescale 1st year 1-3 years 3+ years
Other (Please specify)		

Do you intend to put the croft or any part of it to a purposeful use other than cultivation?

Yes

No

If **Yes**, please provide details below:

Purposeful Use (please tick all that apply)	<input checked="" type="checkbox"/>	Timescale 1st year 1-5 years 5+ years
Tourist Accommodation Development		
Other Tourism Development		
Renewable Energy (eg wind turbines)		
Horse Livery		
Other (Please specify)		

Please provide details below:

Please use the additional information section to provide details including how the project will be funded (it may be helpful to include a copy of your Business Plan if this is available).

A crofter may only put the croft to a purposeful use if the landlord has consented to the use (unconditionally or subject to conditions acceptable to the crofter); or the Commission has consented to the use if the landlord has withheld their consent. While we encourage you, as the proposed tenant of the croft, to discuss purposeful use proposals with the landlord you will only be able to obtain formal consent should the Commission approve this application.

SECTION 19

SKILLS AND EXPERIENCE

Do you have any crofting/agriculture experience?

Extensive previous experience Some previous experience No previous experience

What experience and/or skills do you have to implement your plans for working and maintaining the land, including non-agricultural experience and skills? (You should include any relevant qualifications):

Skills and Experience (please tick all that apply)	<input checked="" type="checkbox"/>	Length of Practical Experience No experience Less than 1 year 1-5 years More than 5 years	Qualification obtained (if applicable)
Animal husbandry			
Land management			
Horticulture			
Use of and/or repairing farm machinery and equipment			
Other crofting/agricultural skills and experience (Please specify)			
Non-agricultural skills and experience (Please specify)			

What crofting or other training (if any) do you intend to undertake to help you carry out your plans for the croft should the application be approved?

Attend Formal Crofting Course

Learn from Existing Crofter(s)

None

Other Training (specify below):

Do you currently have any other croft or agricultural land?

Yes

No

If **Yes**, please provide details below:

If you have more than 3 Crofts or Holdings please enter details at Additional Information Section.

Agricultural Code No	Croft or Holding	Croft/Holding Name	Area in Hectares	Any common grazings rights?	Status
					Owner-Occupier Crofter Tenant Subtenant Short Term lease tenant Owner

How do you cultivate or otherwise use this other land?

Crops/Other Cultivation (please specify)	Hectares
Grass: Forage	
Grass: Grazing	
Cereals	
Vegetables	
Soft Fruits	
Apiary/Bee Keeping	
Tree Planting/Use of land as Woodland	
Other Horticulture (Please specify)	

Livestock	Present Number
Sheep	
Cattle	
Poultry	
Pigs	
Other (Please specify)	

Do you currently participate in or intend to take part in any crofting activities? Yes No

If **Yes**, please provide details below:

Crofting Activity	Already Participate	Intend to Participate
Livestock Gatherings		
Sharing of Machinery		
Crofting Community Projects		
Other (Please specify)		

SECTION 20

WIDER INTERESTS

ⓘ Please refer to Guidance – WIDER INTERESTS

In deciding the application, the Commission is required to consider the interests of the local crofting community, the sustainable development of the local crofting community, the interests of the public at large, and the interests of the estate (if applicable).

This application will impact on these wider interests by:

List options (please tick all that apply)	<input checked="" type="checkbox"/>
Providing employment opportunities within the community	
Utilising the services of local contractors and/or suppliers	
Supporting and using local infrastructure facilities (eg the use of local shops, bus service, community hall, nursery/school)	
Contributing to improvements to the landscape and environment in the locality	
Contributing to the social and cultural benefits associated with crofting	
Supporting tourism in the area	
Bringing wider skills and experience which will benefit the community (eg the proposed crofter and/or family members may be mechanics, builders, teachers, midwives, nurses, vets etc)	
Other (Please specify)	

Please provide details below:

SECTION 21

ADDITIONAL INFORMATION

Please provide any additional information in support of this application that you consider may be helpful to the Commission in reaching its decision:

SECTION 22

PROPOSED TENANT/AGENT DECLARATION AND DISCLAIMER

Proposed tenant/agent please complete and sign this declaration

DECLARATION

I declare that:

To the best of my knowledge, the information I have given in this application is correct

I am aware of the duties which a crofter is required to comply with relating to residence and land use.

I am aware that failure to comply with these duties can lead to enforcement action resulting in the termination of a croft tenancy.

Where the application is being submitted by a non-professional agent, a completed Mandate Agent Authorisation Form has been included with this application.

I have read and understood the Commission's Privacy Policy.

I agree to communication via email regarding this application.

DISCLAIMER

All parties involved in any application/notification to the Commission should satisfy themselves as to the identities of the relevant parties involved in an application/notification as the Commission does not have the facility to carry out identity checks to verify a person's identity.

Any person who (i) knowingly provides false or incorrect information including any documentation or other information supplied with this application/notification, and/or (ii) who forges a signature (electronic or physical), may be guilty of a criminal offence. The Commission takes no responsibility for any such fraudulent acts or omissions. However, the Commission may investigate suspected fraud and any declarations, signatures or statements made in connection with the application/notification which the Commission suspects to be fraudulent will be reported to Police Scotland.

By signing this declaration, I acknowledge that I have read, understood, and agree to be bound by these terms and conditions.

Signed

Date

SECTION 23

WHAT HAPPENS NEXT

If the croft is not already registered on the Registers of Scotland (RoS) Crofting Register, the relevant RoS form (**Form A**) must be sent to the Crofting Commission by post as soon as possible.

Guidance for how to complete the RoS Form A can be found on their website at the following address:
First registration of a croft – RoS Knowledge Base (www.ros.gov.uk)

If the croft is already registered, then there are no registration requirements at this stage of the process.

Once your application has been received the Crofting Commission will send an acknowledgment letter to confirm this.

SECTION 24

APPENDIX – SAMPLE NOTIFICATION FOR SENDING TO LANDLORD

Notice for Landlord/Owner of Common Grazings

Proposed Assignment of a Croft

I (Please print tenant's name)

am applying to the Crofting Commission for consent to assign the tenancy of the croft at

to (proposed tenant's name and address)

If you have any comments, you may submit these in writing to the Crofting Commission, Great Glen House, Leachkin Road, Inverness IV3 8NW or email info@crofting.gov.scot

by

(insert date here giving 28 days from date of publication of newspaper advert).

Please note that any comments received by the Crofting Commission are part of an open process and will be made available to myself and any interested parties. Your comments would also be released under a Freedom of Information enquiry.

Signed

Date

END OF APPLICATION FORM

PUBLIC NOTIFICATION

You must advertise your regulatory application in a newspaper circulating in the district in which the croft is situated. You are responsible for paying for the advert. Failure to follow the guidelines may result in you having to re-advertise your application.

The advert should appear no earlier than 1 month before the submission of the application and no later than 2 months after the submission of the application.

A standard advert for your use is provided.

We would encourage you to contact the local Grazings Clerk/Constable to make them aware of your proposals, as experience has shown this can help establish good community relationships.
(If unsure who the clerk is, find out via the ROC Online ROC Register of Crofts | Crofting Commission (www.crofting.scotland.gov.uk/register-of-crofts)

Sample Newspaper Advert

Proposed Assignment	(Tenant's name)
<hr/>	
is applying to assign the tenancy of the croft at	(Croft name and parish)
<hr/>	
to	(Proposed tenant's name)
<hr/>	
of	(Address)
<hr/>	
Written comments from those with a relevant interest (which may be made public) to: Crofting Commission, Great Glen House, Leachkin Road, Inverness IV3 8NW, info@crofting.gov.scot within 28 days of the advert.	

REQUIREMENT TO REGISTER YOUR CROFT LAND

The Crofting Reform (Scotland) Act 2010 established the Crofting Register.

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 (RoS), 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.

These checks include, ensuring the application is in respect of a croft which is entered in the Register of Crofts, ensuring that the parties listed in the application as the tenant, owner etc, matches the information held in the Commission's records, and ensuring the information provided by the applicant in terms of historical apportionments, decroftings and resumptions correspond with our records.

What we are not checking (in most cases) is whether the applicant has accurately mapped the boundaries of the croft. That is because the Commission's Register of Crofts which was established in 1955/56 was never intended to be and has never served the function of being a map based register. In addition, the Commission have no legal locus in determining the boundaries of a croft. The body who are charged with determining the boundaries of a croft are the Scottish Land Court.

If your croft is unregistered, The Commission will be unable to make a decision on your regulatory application until the croft has been registered with RoS). To avoid delays therefore, we recommend that your regulatory application should be accompanied by your application to register the croft on the Crofting Register. 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, it your regulatory application will be withdrawn from our records and returned to you. If you subsequently re-submit the regulatory application, it will be treated as a new application and will require to be re-advertised.

If your croft is already registered with the Keeper of RoS, an application for Registration of a Subsequent Event will be required should your regulatory application be approved.

POLICY PLAN

Section 58A(7)(g) of the Crofters (Scotland) Act 1993 (“the 1993 Act”)

In considering its decision on this application, the Commission must have regard to the Commission's policies included within its Policy Plan approved by the Scottish Ministers and any other matter which the Commission considers relevant.

When considering applications to assign, the Commission will apply section 58A of the 1993 Act and its policies on residency, land use and shared management. The application should show that the proposed assignee is both able to and intends to comply with all the statutory duties and in particular that he or she intends to be ordinarily resident on or within 32 kilometres of the croft and to cultivate and maintain the croft or put it to a purposeful use which has section 5C(4) consent. The proposed assignee may live elsewhere pending the assignation, but the Commission will need to be satisfied that the assignee intends to fulfil the residency duty within a reasonable time, and may include as a condition that this duty is met within a specified period. The Commission will not generally approve an assignation where it has reason to believe that the proposed assignee will be absent from the croft or will otherwise fail to comply with a crofter's duties.

In considering applications to assign, the Commission may take into account the number of crofts which the proposed assignee already holds (as tenant or as owner-occupier crofter). The Commission's policy of promoting population retention and increased residency of crofts will not preclude multiple tenancies/ occupation provided that the Commission is satisfied that this is in the wider interests of crofting and the crofting community.

CROFTERS DUTIES

RESIDENCY AND LAND USE

Section 58A(7)(a) of the Crofters (Scotland) Act 1993

In considering its decision on this application, the Commission must have regard to:

- (i) whether any person is or will be ordinarily resident on, or within 32 kilometres (20 miles) of, the croft;
- (ii) whether the croft is being or will be cultivated or put to such other purposeful use.

All crofters are required to comply with a number of statutory duties relating to residency and management of their crofts.

WHAT ARE CROFTERS DUTIES?

Both tenant and owner-occupier crofters have a duty to:

- Be resident on, or within 32 kilometres (20 miles) of their croft
- Cultivate and maintain the croft

Cultivate – This refers to the croft being used for cultivation or put to another purposeful use. This includes horticulture, keeping livestock including poultry and bees, growing of crops and the planting of trees.

Maintain – This refers to the maintenance of the croft; to enable the croft to be cultivated it must be maintained in a fit state except where another purposeful use is incompatible with the croft being kept in such a state.

Purposeful use – This means any planned and managed use which does not adversely affect the croft, the public interest, the interests of the landlord or (if different) the owner, or the use of adjacent land.¹

- Not misuse or neglect the croft

Misuse – This refers to a croft being used for something which is not considered as cultivation.

Crofters require the consent of their landlord or, failing that, the Crofting Commission if they wish to put their croft to another purposeful use.

Neglect – This refers to the management of the croft which should meet the standards of Good Agricultural and Environmental Condition (GAEC).

¹ A crofter may only put the croft to a purposeful use if the landlord has consented to the use (unconditionally or subject to conditions acceptable to the crofter); or the Commission has consented to the use if the landlord has withheld their consent.

BUILDINGS, FIXED EQUIPMENT AND PERMANENT IMPROVEMENTS

Any fixed equipment or permanent improvements e.g. agricultural or domestic buildings which form part of the tenancy will be assigned with the tenancy. If the croft house and garden ground is part of the tenancy of the croft and you wish to retain it, you must decroft and purchase the site prior to submitting the assignation application.

If an advance of purchase decrofting direction has been granted in respect of the croft house site and garden ground or part of the croft, this area will be included in the assignation of the croft tenancy unless it has been purchased from the landlord.

WIDER INTERESTS

In this section you are provided with the opportunity to make any comments on these matters which the Commission are required to take into account when considering your application.

Section 58A(7)(b)-(e) of the Crofters (Scotland) Act 1993

In considering its decision on this application, the Commission must have regard to:

- (b) the interests of the estate which comprises the land to which the application relates;
- (c) the interests of the crofting community¹ in the locality of that land;
- (d) the sustainable development of that crofting community;
- (e) the interests of the public at large

SUSTAINABLE DEVELOPMENT

Sustainable development of a crofting community will normally include the economic social and environmental well-being of the community but meeting the sustainable development criteria need not require meeting all these strands. For instance, the agricultural aspect of crofting is not always necessarily financially sustainable, but this does not preclude it from adding value to the well-being of the individual and the surrounding community. Consideration of applications should take account of the maintenance and possible increase in populations, good management practices, the protection and enhancement of environmental assets, economic demand and employment opportunities, the protection and encouragement of biodiversity, the production of renewable energy reduction in carbon emissions, resource efficiency and the avoidance of dereliction of land. There are many criteria available when considering sustainable development although not all will be applicable to each circumstance.

PUBLIC INTEREST

Crofting legislation does not define 'public interest', although it contains various references to it. It is therefore for the Commission to be satisfied that, where required on a case-by-case basis, the public interest test is met.

In exercising its functions, the Commission must have regard to (a) the desirability of supporting population retention in the crofting counties and in any other designated area where crofts have been created, and (b) the impact of changes to the overall area of land held in crofting tenure to the sustainability of crofting.

In determining if, for example, approving an application is in the public interest, the Commission may consider any evidence of the benefits and disbenefits to other crofters, crofting communities, the wider community and others the Commission considers as having an interest in the application. The Commission will also take into account the Scottish Government's crofting policies and will normally favour the wider public interest particularly where individual private interest will disadvantage the sections detailed above.

¹ Crofting community means all the persons who (either or both) – occupy crofts within a township which consists of two or more crofts registered with the Crofting Commission; hold shares in a common grazing associated with that township.

END