



Crofters Commission
Coimisean nan Croitearan

Division



This leaflet is for any crofter considering dividing a croft. It is for general information only and must not be taken as an authoritative statement of the law

It aims to explain our policies and procedures, but these do change from time to time. To check you have the most up-to-date version please contact us and quote the publication date at the bottom of this page, or visit our website www.crofterscommission.org.uk/document.asp

If you have any queries about dividing your croft please contact us at our Inverness office or your local Scottish Government Rural Payments and Inspections Directorate (SGRPID) Area Office.

While we can clarify particular situations and potential options, we cannot give a legal opinion or adjudicate in civil disputes.



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What is Division?

Division is when the tenant of a croft divides a croft ('the original croft') into two or more units.

The tenancy of one or more of the 'new crofts' can then be:

- assigned to a new tenant (see our leaflet on Assignment)
- renounced so it may be let by the landlord to create a new unit or to enlarge an existing croft

The prior consent of your landlord to the proposed division is not required. However all applications to divide a croft tenancy **must** be approved by us. If our consent is not obtained the division will be null and void.

Please note: – You may renounce the tenancy of one or more of the 'new crofts' with a view to asking your landlord to let the vacant croft to a new tenant as (i) an enlargement to an existing croft or (ii) as a new unit. The landlord **must** complete a letting application form. For more information please refer to our Letting a Croft or Part Croft leaflet.

Please note:

- You cannot apply for consent to a proposed assignment until the outcome of the division application is known
- If the purpose of dividing your croft is to provide a site for a new house for another croft at least outline planning consent must be submitted with the division application.
- Where approval of the the division will form two or more new crofts, please discuss the names and the rent payable for each croft with your landlord prior to applying

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How do I apply to divide my croft?

Application forms are available from our website, www.crofterscommission.org.uk, or our Inverness office.

We strongly advise you check the extent of your croft recorded in our Register of Crofts. If our records do not match the information you provide, the application will be returned to you unless the landlord(s) confirm the extent. Please ensure the areas to be divided match the total area of the original croft.

You should carry out the initial notification process by:

- advertising your intention to divide your croft in the local press, allowing anyone with a direct interest 28 days to submit comments to us, (a sample advert for use in your local paper is provided with the application form), and
- informing your landlord(s) in writing. If the common grazing is owned by a separate owner you may also wish to advise them of the proposed division (an example notice for your landlord(s) is also provided with the application form).

Important: Your completed application form should be sent to us before your application advert appears in the local press.

You **must** provide a scale map showing the boundaries of the croft land of the original croft and the extent and areas of the proposed division. An example map is provided along with the application form, with details of the information you should provide. Failure to provide a correct map will result in your application form being returned. The proposed division of any right of grazing or share in a common grazing should also be clarified on the application form.

While we no longer contact grazing committees, landlords or assessors as a matter of routine, we do encourage applicants to consult with the grazing committee and local community before submitting an application. Experience has demonstrated this can help establish good community relationships.

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What happens next?

We are required by the Crofting Reform etc Act 2007 to assess each application against set criteria. If your application does not invoke any of the criteria set down by the Act, and there have been no valid objections, we will follow the shortened application process and advise you of our consent within 21 days of the end of the public notification process.

Where the application invokes the set criteria, where there have been valid objections or where we have reasonable cause for concern we may take an in-depth look at the proposal. This may involve us seeking additional information from the appropriate source.

Again we will let you know what is happening within 21 days but if further investigation is required it may take around 12-16 weeks before a decision is taken on your application.

Applications are assessed on the following;

- The interests of the estate which comprises the land.
- The interests of the crofting community.
- The interests of the public at large.
- The sustainable development of the crofting community.

Specific criteria

- The application is for the creation of more than two crofts.
- The original croft is one created as a consequence of an earlier division, or subdivision (subdivision was the name used for the process prior to the 2007 Act)

Your application will also be assessed in line with the Commissions Policy and Legislative Guidance

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Who can object?

The landlord of the croft, the owner of the common grazing and any member of the crofting community** in the locality of the croft, (and, if the croft includes shares in a common grazing, the grazing committee or any crofter who shares in the common grazing) can make an objection to us in relation to the application.

Any objections must be made in writing, or in a form that has permanency and can be used for subsequent reference e.g .via email.

***the crofting community is defined as occupiers (owners, tenants or subtenants) of crofts or grazing shares in a township of two or more crofts.*

Approval or refusal

Before we take a decision on the application all interested parties will be sent a copy of the paper that contains all the relevant information gathered.

In certain circumstances, we may decide to direct a Hearing before a decision is made. Appropriate parties to the application may also request a Hearing. ***

If we approve the application the division will be recorded in the Register of Crofts as soon as you confirm the name of the new croft and details of any new or revised rents agreed with the landlord or his/her agents.

***Only one hearing can be held into each application. If we hold a Hearing prior to the issue of the paper the information gained at the Hearing will be contained in it.

Appeals against our decision?

Our decision can be appealed to the Scottish Land Court within 42 days of the date of our decision letter.

The Land Court may confirm our decision or instruct us to come to a different decision or ask us to reconsider the application e.g. the Court could overturn our decision to consent to the division, which could not then take effect.