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**By Email**

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Date: 18 March 2021

Dear Mr Lindhurst

**REGISTERS OF SCOTLAND - CONTRIBUTION TO THE SCOTTISH  
GOVERNMENT'S NATIONAL DEVELOPEMENT PLAN FOR CROFTING**

The Scottish Government has a Programme for Government commitment to publish a "National Development Plan for Crofting", covering a wide range of support and grants relating to crofting development available to crofters both currently and in the future. That plan has been published today and, as your Committee's remit includes matters relating to the Registers of Scotland (RoS), I thought it might be helpful if I draw your attention to our contributions to the Plan.

Registers of Scotland's contributions relate to two areas – the Crofting Register and Crofting Legislation – which can be found at pages 24 and 81 of the plan. The Crofting Commission's mapping and registration of common grazings project, on page 13, also relates to RoS and may be of interest to the Committee. Extracts of these sections are attached for ease of reference and a copy of the full plan is available on the Scottish Government's website at: <https://www.gov.scot/isbn/9781800042049>.

The map-based Crofting Register was introduced in 2012 and is maintained by me, as registrar and the Keeper of the Registers of Scotland. It is the first official register to provide crofters and other interested parties legal certainty over the extent of, and interests in, croft land. As such, I was invited to provide a contribution to the plan.

I hope this helpfully highlights the crofting registration interests for the Committee in this Scottish Government publication. Please do not hesitate to contact me if you or the Committee require any further information regarding the Crofting Register.

Yours sincerely

**JENNIFER HENDERSON**  
**Keeper of the Registers of Scotland**

## CROFTING REGISTER

The Crofting Reform (Scotland) Act 2010 (the 2010 Act) requires the Keeper of the Registers of Scotland (RoS) to establish and maintain a free to search, public register of common grazings, crofts and land held runrig called the Crofting Register. This register provides crofters and other interested parties legal certainty over the extent of, and interests in, land held under crofting tenure. This is one of a number of registers maintained by the Keeper.

The purpose of the Crofting Register is to provide:

- transparency as to the extent of crofts and land in Scotland that is subject to crofting tenure. Croft land is displayed against a backdrop of the Ordnance Survey map.
- an accurate and current legal record of croft land.
- security and confidence to crofters, landowners and others over the extent of, and interests in, land held in crofting tenure.
- a platform that enables crofters to realise the economic potential of croft land.
- an important tool for the Crofting Commission in the effective regulation of crofting.
- a means of ensuring that land does not inadvertently fall out of crofting tenure.

Registration in the Crofting Register is required following certain ‘trigger events’<sup>1</sup> and through voluntary registration of individual crofts and common grazings, or groups of crofts through a more collaborative approach to registration.

### Fees

Registration fees for the Crofting Register are set by the Scottish Ministers and can be viewed in the Registers of Scotland (Fees) Order 2014 (SSI 2014 No. 188)<sup>2</sup>. The current £90 fee per registration has remained unchanged since the Crofting Register was first introduced in November 2012.

### Support

RoS continues to offer support to crofters and landowners seeking to submit an application to register croft land and promotes a collaborative approach towards agreeing the extent of croft land before submitting applications for registration in the Crofting Register. This provides an opportunity to ensure information entered in the Register is accurate and thereby minimises the potential for challenges against registration and the requirement for changes in the future.

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<sup>1</sup> <https://kb.ros.gov.uk/other-registration-types/crofting/who-should-register-and-when>

<sup>2</sup> [https://www.legislation.gov.uk/ssi/2014/188/pdfs/ssi\\_20140188\\_en.pdf](https://www.legislation.gov.uk/ssi/2014/188/pdfs/ssi_20140188_en.pdf)

RoS offers similar support to those wishing to submit a community application, where a collaborative approach is particularly relevant, and would encourage all of those with a local interest in croft land to participate in the process. For example, RoS has assisted communities by arranging visits to discuss the requirements for registering croft land, to explain the mapping requirements and to assist with any local issues relevant to successfully registering croft land.

Support from RoS also includes the provision of maps to crofters to enable them to accurately define the boundaries of their croft when preparing applications for registration.

In addition, RoS works collaboratively with other crofting stakeholders, such as the Scottish Government, the Crofting Commission and crofting representative bodies. This is to ensure that the Crofting Register continues to deliver an accurate representation of land held in crofting tenure.

As at October 2020, RoS has registered 69 community applications totalling 864 crofts, accounting for 12% of the total number of 7,141 registered crofts. There are also 335 common grazings registered in the Crofting Register. The online Crofting Register<sup>3</sup> contains extensive guidance on how and when to register your croft.

#### **Action**

- Registers of Scotland will continue to work collaboratively with the Scottish Government, the Crofting Commission and other crofting stakeholders to continually improve the Crofting Register registration process for all involved within the current legislation.

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<sup>3</sup> <http://www.crofts.ros.gov.uk/register/home>

## CROFTING LEGISLATION

Work on crofting legislative reform was suspended in October 2019 as a consequence of Brexit preparations. This was regrettable but unavoidable.

The plan includes examples of legislative changes proposed by the Crofting Bill Group, three of which relate to RoS:

- the purchase of a croft from a landlord being established as a trigger point for first registration on the Crofting Register maintained by Registers of Scotland.
- provisions to apply reasonable and proportionate sanctions where an applicant knowingly provides false information in connection with a registration application (as with the Land Register).
- a more comprehensive power for the Keeper of the Registers of Scotland to rectify inaccuracies in the Crofting Register, similar to the Land Register.

There is also one issue for RoS requiring further consideration, relating to provisions enabling a standard security to be issued against a croft tenancy.

In the meantime, where possible, administrative actions to clearly explain issues such as stand-alone grazing rights (deemed crofts) and the liabilities of common grazing's committees were to be sought.

- The Scottish Government remains committed to modernising crofting law to make it more transparent, understandable and workable.
- The Scottish Government will continue to engage with stakeholders in regard to legislative reform.

### Mapping and Registration of Common Grazings

The [Crofting] Commission maintains a Register of Crofts containing basic details about each croft, such as its status, owner(s) and crofter(s). It does not include a map of the croft. The map-based Crofting Register, held by Registers of Scotland, was introduced in 2012 to provide a definitive and current record of the extent of, and interests in, crofts and croft land, which includes common grazings and lands held runrig. The Crofting Register is separate to the Land Register and the Register of Crofts.

Registration of each croft in the Crofting Register is the responsibility of the crofter, who has to pay the charges necessary for the service. Registration is mandatory following trigger events such as the assignation of the croft, and consequently the amount of land in crofting tenure that is registered is increasing over time. By 2020,

approximately 30% of all crofts had been mapped and included in the Crofting Register.

However, only the Commission can apply to register common grazings, and much of the work involved in the preparation of the application falls to the Commission, along with townships and landowners. Over a four-year period between 2012 to 2016 the Commission undertook a grazings registration project which aimed to facilitate the early registration of common grazings. This work culminated in around 330 common grazings being registered, about a third of the total. However, the work was more costly and complex than originally expected.

By Spring 2021, the Commission will have conducted a study of the registration of common grazings, in order to review the challenges and achievements of the 2012-2016 project, the complexities of the registration process (including mapping difficulties) and the legislation, and the practical benefits that may have resulted from registration. Following consultation with Registers of Scotland, the Commission will report to the Scottish Government on the way in which this work could best be taken forward. It is the Commission's and the Scottish Government's long-term aim to register all common grazings in the Crofting Register.

- By June 2021, the Commission will have reviewed the practicalities and the benefits of common grazings registration, consider when and how the work can be resumed, and report to the Scottish Government with a plan to progress the registration exercise.