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## Rural Affairs and Islands Committee

# Stage 1 report on the Crofting and Scottish Land Court Bill



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# Rural Affairs and Islands Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands, with the exception of matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland, and Royal Botanic Garden.



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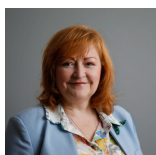
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# Membership changes

1. The following change to the Committee's membership occurred during the Committee's Stage 1 scrutiny:
  - On 2 September, Ariane Burgess replaced Mark Ruskell as member of the Committee.

# Introduction

2. The [Crofting and Scottish Land Court Bill](#) was introduced in the Scottish Parliament on 2 June 2025 by the Cabinet Secretary for Rural Affairs, Land Reform and Islands and referred to the Rural Affairs and Islands Committee for consideration at Stage 1.
3. The [Committee ran a call for views on the Bill between 13 June to 5 September 2025 and received 33 responses](#).
4. The Committee held five oral evidence sessions on the Bill between September and November 2025. It heard evidence from the Crofting Commission, legal and procedural experts, representatives of the crofting community and the Scottish Land Court. Finally, the Committee took evidence from the Minister for Agriculture and Connectivity, supported by officials from the Scottish Government. Further information about the Committee's oral evidence sessions on the Bill is available in Annexe A.
5. On 21 to 22 September, [the Committee undertook a fact-finding visit to the Isle of Skye to meet with a number of crofters](#).
6. On [10 November 2025, the Committee held an online meeting with various crofters from across Scotland](#) to discuss how the Bill would affect them.
7. The Committee is grateful to all those who supported its scrutiny of the Bill.
8. Further information on the Bill can be found in the [bill briefing published by the Scottish Parliament Information Centre \(SPICe\)](#).
9. In addition to the issues raised in the call for views which were pursued by the Committee over the course of its stage 1 inquiry, a number of detailed questions and comments were made about the Bill. These have been set out in Annexe B for the Scottish Government's consideration.
10. A glossary of terms is set out in Annexe C.



## Consideration by other parliamentary committees

11. The [delegated powers memorandum](#) (DPM) sets out the Scottish Government's reasons for using delegated powers and the procedure chosen. The Bill confers ten delegated powers to Scottish Ministers and one delegated power to the Court of Session. The [Delegated Powers and Law Reform Committee \(DPLR Committee\) was content with all the powers and published a report on the DPM on 1 October 2025](#).
12. The Scottish Government published a [financial memorandum](#) setting out the anticipated costs associated with the Bill. The Finance and Public Administration (FPA) Committee considered the Bill's financial memorandum. The [FPA Committee held a call for views on the financial memorandum](#), to which it received one response, and then agreed to take no further steps.

# Part 1 - crofting reform

13. The policy memorandum confirms the Scottish Government's recognition of the “vital contribution that crofting makes to the population, economy and culture of Scotland”. It goes on, however, to state that “the system needs to adapt to the changing circumstances, to allow crofting to continue to thrive”.
14. The Bill would amend the 1993 and 2010 crofting legislation to strengthen crofting in seven areas—
  - crofting communities, a cross-cutting theme
  - enforcement of crofters’ duties
  - Crofting Commission powers
  - common grazings
  - crofting register
  - electronic communications
  - simplifications and clarifications of crofting law
15. After noting the general views expressed on the Bill over the course of the Committee's stage 1 inquiry, this report considers each of these areas (except the first, as this is a cross-cutting theme) in turn.
16. Please note that this report only comments on those Bill provisions which were raised in evidence.

## General views on Part 1 of the Bill

### Support for the Bill's provisions

17. Generally, stakeholders expressed their support for the Bill's provisions. There was also broad support for the Scottish Government's approach of addressing specific issues that have been identified in crofting law with this Bill. In addition, there was a recognition that a future conversation about wider and more fundamental reform to crofting law is necessary.
18. [When the Crofting Commission gave evidence to the Committee on 24 September 2025, the chief executive](#) told the Committee he was “very much in favour” of the Bill as it constitutes a ‘tidy-up’ exercise in a number of areas which were “problematic and were probably not best thought out when they were written” or a result of dated legislation so some provisions “no longer make sense in today's world”. He said Commission staff “spend a lot of time dealing with” these issues so the proposed changes would enable the Commission to focus its resources in other areas.
19. On the [fact-finding visit to Skye in September 2025](#), Committee members heard the overall view that the Bill is not the fundamental reform of crofting legislation that

some crofters had been hoping for but that it does provide some useful adjustments to existing legislation.

20. Scottish Land and Estates comments at the [stakeholders' round table on 29 October 2025](#) reflected the view expressed by many—

” We have the Bill, and peace has broken out. We are all in agreement with one another on pretty much everything, so let us get this one through.

## Support for wider and more fundamental reform of crofting law

21. As highlighted, however, there was also strong support for a wider and more fundamental review of crofting in Scotland and crofting law.
22. The chief executive of the Crofting Commission told members that, “along with everyone else, I believe that a wholesale reform of crofting is needed almost 150 years after the Crofters Holdings (Scotland) Act 1886”. The chair of the Commission agreed, telling members that “the proposed changes are helpful, but they are only steps on a journey”.
23. At the [Committee's meeting with legal crofting experts on 8 October 2025](#), Camus Consulting was also a strong advocate for a review of crofting policy. Camus Consulting told the Committee that the Bill just ‘tweaks’ existing legislation and that —
- ” That is the problem with crofting legislation—and it has been for decades. The more [tweaking] you do, the more time you can spend thinking up a fudge [about common grazings] that people are happy with and can sign up to, but it will ultimately still be a mess. In fact, it will be a mixture of several messes, because it piles one thing on top of another.
24. Camus Consulting went on; “if, in the future, there will be another bill—for which there is now widespread appetite in both the crofting community and the associated legal community—I would welcome some properly thought-through policy rationale for the crofting system which the legislation could then work around”.
25. There was also broad support for a fundamental review and reform of crofting legislation across [crofting stakeholder groups when they gave evidence on 29 October 2025](#). The Scottish Crofting Federation called for a commitment to a review and noted that “some fundamental things have changed over time”, including an escalating market in crofts, the right to buy and creation of new crofts on public land; it argued that “we need a real, immediate commitment on what is next and where we should go”. Scottish Land and Estates thought that “some difficult decisions might need to be made down the line, and that will take leadership”, adding that “the next one [Bill] might be a bit more controversial, but it will need to be done”. The National Farmers Union Scotland called for structural reform of crofting and for the Government to “push back” on the marketisation of crofts and the Comhairle nan Eilean Siar called for “a commitment for more fundamental change”.
26. The challenges facing people wanting to take up crofting, especially in terms of the rising costs of croft land and housing, were raised by many of the crofters who met

with members on the [Committee's fact-finding visit to Skye in September 2025](#) .

27. When the [Minister gave evidence to the Committee on 12 November 2025](#), he set out how this Bill would relate to a future legislation—

” The Bill prepares the ground for what comes next. It will help lay a stronger, healthier foundation for crofting whereby we aim to have increased residency levels and more people actively using their crofts and common grazings. We will then be in a better place to take stock and consider what is needed for the future.

28. The Minister later added that “the future reform will absolutely be necessary, but I caution against rushing straight into it”. The Minister gave the example of calls to review the crofters’ right to buy; the Minister stated this was “a perfectly reasonable question to ask” but highlighted that more than 6,500 crofters have already exercised their right to buy.

**29. The Committee recognises the significant importance of crofting in Scotland and the cultural, economic, social, and environmental benefits it continues to deliver in rural areas.**

**30. The Committee notes the general support for the Bill's provisions and the Scottish Government's approach of addressing specific issues which have been identified via this Bill. The Committee also notes the positive feedback from all stakeholders about the Scottish Government's engagement and co-design with them on the Bill's provisions.**

**31. At the same time, the Committee notes broad support for a more fundamental and structural review of crofting policy and law in modern Scotland. Some stakeholders expressed their disappointment that such a review is not further forward. The Committee recommends the new Scottish Government, at the start of session 7, confirm its intention to undertake this review and then bring forward legislation. The Committee intends to set out this recommendation in its legacy report to its successor committee.**

## **Enforcement of crofters' duties - sections 1 to 7**

32. Crofting legislation requires that crofters fulfil three key duties which are enforced by the Crofting Commission – to be ordinarily resident on, or within 32km of, their croft; to cultivate and maintain their croft or put it to another purposeful use; and not to misuse or neglect their croft.

33. The policy memorandum notes that crofters’ adherence to their duties is “vital for the strength of crofting communities and for population retention and land use in remote areas”. It goes on to state that the Bill aims to “streamline and improve” the

legislation in place to give Crofting Commission powers to enforce better these duties.

## General views on enforcement of crofters' duties

34. The issue of the enforcement of crofters' duties – both the Crofting Commission's capacity to enforce these duties in recent years and crofters' desire for more effective enforcement – was raised in every discussion and evidence session relating to the Bill.
35. All the crofters the Committee met during its [fact-finding visit to Skye in September 2025](#) expressed concerns that the Crofting Commission is not doing enough to enforce crofters' duties. These crofters were sceptical about whether the Bill's provisions would improve enforcement in the future.
36. [When the Crofting Commission gave evidence to the Committee on 24 September 2025, the chief executive](#) acknowledged that “in the past, because the Commission did not have the necessary resources, most of our effort was placed on regulatory applications ... and the ultimate enforcement was left as a secondary thing”. The chief executive went on to say “that is not the case now, because we have listened ... and we are now taking action”. The Committee discussed the impact of absentee crofters - owner-occupier or tenant crofters who do not fulfil the residency duty – and the Committee heard about crofters who are resident elsewhere in the UK or overseas. The chair of the Crofting Commission told the Committee that “we need to tidy that up” and that the Commission is “in the process of tightening things up”.
37. The chair spoke about the Crofting Commission's current “comprehensive programme of modernising policy” and refocus on enforcement using its existing powers. The chair pushed back against suggestions that the Crofting Commission needs further enforcement powers, telling members he was “confident that the right way to enforce crofting duties is by using the tools that the Parliament has already given us, rather than by trying to invent something new”. The chair stated he is “determined to drive through those changes” but acknowledged that “it might become a little bit uncomfortable for people as we change gear”. [In his 1 October 2025 letter, the chair of the Crofting Commission](#) provided further information about the board's “new strategic emphasis” and “increased resources devoted to enforcement”, a process which would “take time, involves legal complexities and must be managed with sensitivity”.
38. The Crofting Commission's record on enforcing crofters' duties was discussed at the Committee's evidence sessions with stakeholders. [Representatives from the legal profession, at the Committee's meeting on 8 October 2025](#), discussed the importance of the Crofting Commission enforcing the crofters' duties and questioned the value of strengthening enforcement powers if the Crofting Commission does not use the powers it already has. Inksters Solicitors asked “if we have provisions that say what people can or cannot do in a croft, but no one is policing that in any shape, form or fashion, does it [the legislation] really matter?”
39. The need for effective enforcement of crofters' duties was also a strong message from the [Committee's round table discussion with crofting representatives and stakeholder organisations on 29 October 2025](#). The Scottish Crofting Federation told the Committee that “the loud message that we get is that everybody would like the Commission to regulate much more on both residency and neglect, because

they do not see enough of that happening at the moment". The Scottish Crofting Federation welcomed the Crofting Commission's increase in resources for enforcement, noting "that is a big juggernaut to turn round"; the Scottish Crofting Federation hoped that "if momentum can be gained on that, that will start to send out a message".

40. When the [Minister gave evidence to the Committee on 12 November 2025](#), he referred to the Crofting Commission's refocus on enforcement, highlighting the Commission's recent "significant" figure of terminating one tenancy a week due to unresolved breaches of duty. The Minister also referred to the Commission's increased resources and tighter enforcement of the annual notice. The Minister noted that the increased enforcement of crofters' duties would, where this results in terminated tenancies, support new entrants to crofting.
41. Although the wider issue of enforcement is outwith the scope of this specific Bill, it was suggested it is an issue which needs to be considered in future legislation. [Representatives from the legal profession who gave evidence on 8 October 2025](#) were critical of the reliance on breaches being reported as the basis for the enforcement process. Camus Consulting told the Committee that the challenges around how the Crofting Commission gathers evidence to enforce a regulated system was "the thorny problem at the heart of the crofting system, unfortunately". The Scottish Crofting Federation expressed a similar view.
42. Alternative, or supplementary, methods of reporting and enforcement were discussed. The Committee asked the Crofting Commission whether legislation should be amended to allow complaints to be made anonymously. The chair of the Crofting Commission told the Committee that the limit on the requirement to investigate a breach to specific categories of people "is actually a weakness of the system" as it required anyone reporting a breach to provide their name. The Crofting Commission answered that it would be "quite content" if anonymous reporting, or not making complainants' names public, was allowed as it "would not make any difference to our work". The Crofting Commission went on to suggest there is a "very strong argument for moving in the direction of saying that anyone can allege [a breach of duty], but they must provide evidence".
43. Scottish Land and Estates noted that "a dependence on people reporting each other will, by definition, be divisive, so we need neutral bodies or at least bodies that can filter out vexatious reports". Most stakeholders suggested the possibility of using the Scottish Government's rural payments and inspections division (RPID) as the "eyes and ears on the ground", if required. It was also recognised, however, that the RPID does not currently have the resources or broader expertise to undertake a wider role in relation to the enforcement of crofters' duties.
44. The, now defunct, role of Crofting Commission assessors was also raised. The Scottish Crofting Federation highlighted that "having them meant that a neutral person was coming in, looking at what was happening on the ground, finding out some information and then going back ... you would not be creating conflict directly between people in a township if you were able to use some of those approaches instead".
45. It was also felt there may be parallels with the role of the land and communities' commissioner, created by the Land Reform (Scotland) Bill which was also under consideration at the same time as this Bill, or the tenant farming commissioner at

the Scottish Land Commission. It was not suggested that these positions could incorporate a role in the enforcement of crofters' duties, rather that they might be worth exploring as a template model.

46. When the [Minister gave evidence to the Committee on 12 November 2025](#), he highlighted the RPID's support to the Crofting Commission and that RIPD has more recently been acting on behalf of the Commission in relation to duties and enforcement cases. The Minister said the Scottish Government was using the existing network and local agricultural offices because "that is more sustainable" and that the Scottish Government was "seeking to establish a parallel network of local commission offices". The Minister told members—

” being on the ground and knowing what is happening locally is probably one of the most important things that we can do to ensure that the crofting way of life and the crofting townships are functioning in the way that they were designed to do. It is a matter of using local knowledge and resource to ensure that crofting is functioning properly.

47. **The Committee believes that a healthy, thriving and sustainable crofting community in Scotland rests on the effective enforcement of crofters' duties by an adequately resourced Crofting Commission. The Committee notes stakeholders' long-standing concerns about the Crofting Commission's enforcement of crofters' duties and crofters' strong desire to be tightly regulated. The Committee welcomes the Crofting Commission's renewed focus of policy and resources on enforcement and asks the Scottish Government to maintain its support and resourcing of the Crofting Commission.**

48. **It is clear that effective enforcement presents many practical challenges to the Crofting Commission. The Committee notes suggestions that the current system of reporting and enforcement of crofters' duties should be included in any future review of crofting. The Committee highlights in this report the representations made to it over the course of its stage 1 inquiry and asks its successor committee to include them in any future consideration of crofting policy.**

49. **Noting the widely held views that effective enforcement needs a local presence in crofting communities, the Committee welcomes the Scottish Government's rural payments and inspections division's support to the Crofting Commission. This provides a network of local knowledge and presence to support enforcement. The Committee also welcomes the Minister's comments that the Scottish Government is seeking to build on this network. In its response to this report, the Committee requests further information from the Scottish Government on how it intends to support this co-operative relationship and build this network. This information should include how the Scottish Government will ensure the rural payments and inspections division has sufficient resources and expertise to enable it to carry out this role, alongside its other functions.**

## Section 1 – Enabling environmental uses of crofts

50. Section 1 would amend the crofters' duty not to misuse or neglect their crofts by extending the definition of purposeful use to include to 'put to any environmental use'. Section 1(3)(d) defines environmental use as "any planned and managed use which does not adversely affect the use of adjacent land" and which may include (but is not limited to) practices such as peatland restoration, habitat creation and restoration, water management (e.g. creating ponds or watercourses) and preserving or improving the natural heritage. The policy memorandum states the provision for environmental use to be planned and managed is to "rule out neglect masquerading as 'rewilding'".
51. The Bill also provides the Scottish Ministers with the power to amend this definition via secondary legislation. The policy memorandum states that "this power is considered necessary as the understanding of environmental land use continues to develop".
52. Referring to the current requirement for a tenant crofter to obtain their landlords' consent to put their croft to a 'purposeful use', the policy memorandum states that, "in an era when land use for environmental purposes is becoming increasingly important, it is odd to require tenant crofters to seek permission for an environmental use". Under the terms of the Bill, a tenant crofter would only need to seek their landlord's permission for an alternative purposeful use.
53. The financial memorandum explains that section 1 would make it easier for crofters to apply for future schemes that support sustainable, regenerative agriculture, as well as other rural development proposals. The financial memorandum states that the number of crofters who would make use of these schemes is difficult to estimate but highlights the [Scottish Government's Economic Condition of Crofting Report 2019–2022](#) which reported that 32% of crofters had already carried out some form of environmental work between 2019 and 2022 and that 39% planned to do similar work between 2023 and 2026.
54. The Bill also gives the Scottish Ministers the powers to update the definition to reflect future changes in the environment, technology or land use updates the definition of "good agricultural and environmental condition" to match current regulations and broader land-use policy.
55. The DPLR Committee considered the delegated powers set out in section 1 and the choice of parliamentary procedure. That Committee was content with the power in principle and its respective procedure.
56. Those who responded to the consultation were generally supportive of section 1. Highlands and Islands Enterprise told members that "it is important that crofting legislation remains responsive to the evolving environmental and land management priorities".
57. Camus Consulting suggested that the change proposed in the Bill is unnecessary, given that tenant crofters are already allowed to use their land for environmental purposes with their landlord's permission.. Camus Consulting told the Committee, however, that, "if that aspect [removing the requirement for landlord consent] is important, the provision is necessary." Scottish Land and Estates suggested that "maybe it is good to have a direction of travel in the Bill that encourages



environmental benefit”.

58. A key issue raised in relation to section 1 was a concern that absentee crofters might exploit the option to put croft land to environmental use and claim that neglect or underuse of croft land was rewilding.
59. Crofters who met members on the [Committee's visit to Skye in September 2025](#) expressed their support, and some enthusiasm, for the fact that crofters would be able to use their crofts for environmental activities. This was combined with a strong concern, however, that the new environmental use could be taken advantage of by absentee crofters and there were calls for safeguards to be put in place to prevent this.
60. [In his letter to the Committee, dated 1 October 2025, the chair of the Crofting Commission](#) supported the extension of the crofters’ duty to include environmental use. He told members that environmental use of croft land “is already happening, and the inclusion of this provision means that the current step that requires permission to do so under ‘purposeful use’ is not necessary”.
61. When the [Crofting Commission gave evidence to the Committee on 24 September 2025](#), the chair responded to stakeholders’ concerns about misuse by telling members that “the idea that people can just sit on their hands and say that that is environmental management is a non-starter”. The chair emphasised the importance of the Commission’s “robust policy plan that sets out very clearly what its policy is on use for environmental purposes” and that “the policy plan is central, but as long as we get that right, the provision in the Bill will work fine”. The Crofting Commission pushed back against suggestions that the Bill should further define environmental use. The chief executive added that—
- ” We do not want to write policy here today, but we would look for further evidence of the crofters’ management scheme, what their plans are for the future, how they will be monitored and measured and what the environmental outcomes are. That is why I am content why the term ‘planned and managed use’ in the Bill will allow us to address all these issues through policy.
62. Yet, many stakeholders suggested that the term “environmental use” is too vague. [Legal and crofting representatives, when they gave evidence to the Committee on 8 October 2025](#), agreed that a clearer definition would be essential to ensure environmental use genuinely benefits both the environment and crofting communities. The Law Society of Scotland highlighted that the definition of “environmental use does not say anywhere that the use must benefit the environment”. The Law Society added that, while the Bill gives examples of environmentally beneficial uses, “the term itself, as defined, does not say that” and questioned whether, for example, renewable energy generation could qualify under the current wording.
63. Concerns about the clarity of the definition of ‘environmental use’ was also raised by [crofting stakeholders at the Committee's round table on 29 October 2025](#). The Scottish Crofting Federation thought that the requirement for ‘planned and managed use’ “could be made stronger so that it is absolutely clear that it has to happen as part of some intentional design, with written-down objectives or outcomes that set out clearly what you are trying to achieve”. Similarly, the National Farmers Union Scotland suggested amending the Bill to emphasise active land management for

environmental use. Community Land Scotland suggested a definition of “any form of use which is intentionally designed and systematically managed to deliver environmental outcomes”.

64. Other crofting stakeholders picked up on the issue discussed with legal experts that the Bill should require positive environmental benefit. Highlands and Islands Enterprise noted that “planned and managed” could sometimes be misleading, giving the example of planting sitka spruce on peatland, which is now known to be ecologically damaging. Scottish Land and Estates told the Committee that it was on the stakeholder group set up by the Scottish Government and that changes to the Bill in this respect have been discussed.
65. Scottish Land and Estates and Community Land Scotland also suggested the requirement not to adversely affect the use of adjacent land should be broadened out to other crofters and the landlord's interests.
66. Community Land Scotland and the Scottish Crofting Federation raised concerns around the impact of using crofting land for environmental purposes with speculation in croft land and potential carbon credit benefits. Community Land Scotland suggested that—
  - ” If environmental use is included but its definition as woolly and is not closely tied to people being ordinarily resident, you could see speculation on crofts. Natural capital market drivers could come into play on crofting land more than they do already, because that land would be seen as potentially being very profitable.
67. The Scottish Land Commission, however, argued against defining the term too tightly as it is “important to have flexibility in the future”.
68. The discussion around section 1 brought in wider issues around integrated land use. Community Land Scotland raised the risk of environmental use preventing the future cultivation of the land and the National Farmers Union Scotland agreed that “we do not want large areas of land to undergo wholesale land use change”. The Scottish Crofting Federation argued that “the approach has to be considered and thought out with respect to a balance of land uses so that people are not destroying the land for the future use of others who come along behind them”. The Comhairle nan Eilean Siar added that—
  - ” It is important that crofts are still used for livestock. Different crofters are concerned about the direction of travel and the right balance being struck so that the utilisation of crops for livestock is still promoted and supported. At the moment that can be quite challenging.
69. Scottish Land and Estates suggested amending the Bill with “wording along the lines of ‘not inconsistent with future cultivation’ could tie the thing together”.
70. An alternative perspective had been put forward in the session with legal experts, however, and the Law Society highlighted that the long-term environmental projects on a croft should not be disrupted by any subsequent changes to the regulations. It argued that—

” we would not want someone to commit to a 40 or 50-year project and then have that use removed from the things that they are allowed to use their croft for. If a crofter has committed to something like that, they should, in effect, be grandfathered into any future change.

71. Crofters who met with members during an [online meeting with crofters on 10 November 2025](#) shared the view that environmental use must be well-planned, managed and complementary to productive or community beneficial activities, rather than a replacement for them. They also expressed concerns around the impact on adjacent land and suggested that environmental use of croft land should be limited to a certain percentage of land.
72. When the [Minister for Agriculture and Connectivity gave evidence to the Committee on 12 November 2025](#), he reaffirmed the Bill's requirement that environmental use must be planned and managed for a clear purpose without harming adjacent land. While acknowledging concerns about misuse under claims of rewilding, the Minister said “we believe that it will not be difficult for the Commission to tell the difference between someone who is actively putting their croft to environmental use, who will be able to explain what the environmental benefits are and what they are trying to achieve and someone who is simply neglecting their croft and presenting the results of that neglect as good environmental practice”.
73. The Minister said that the Scottish Government plans to strengthen the Bill's definition of environmental use, he told members that, “for example, ‘environmental use’ could mean any land that is deliberately planned and actively managed to achieve a specific environmental outcome”. The Minister also stated that the Commission's policy plan “will bring further clarity on the matter and explain what would be expected of crofters in meeting that specific duty”.

**74. The Committee notes the general support for extending the definition of purposeful use to include ‘put to any environmental use’. Given the benefits of using crofting land for environmental activities, the Committee welcomes making the process easier, which the removal of the requirement for tenant crofters to obtain landlord consent would achieve.**

**75. The Committee notes concerns that some absent or negligent crofters could use the environmental use as a cover for neglecting their croft land. The Committee also notes, however, the safeguards provided for in the Bill – that environmental use must be ‘planned and managed’ and ‘not adversely affect the use of adjacent land’ – would be key to the Commission's enforcement of this duty.**

**76. The ultimate safeguard against misuse is the Commission's effective enforcement; as expressed earlier in this report, the Committee welcomes the Crofting Commission's renewed focus of policy and resources on enforcement and asks the Commission to extend this to ensure the environmental use of croft land would be appropriately enforced.**

77. **Having heard concerns regarding the definition of ‘environmental use’, and noting the Minister’s commitment to strengthen this, the Committee asks the Scottish Government to update it on possible amendments in its response to this report.**

78. **As with other aspects of crofting policy which have been touched on during the Committee’s stage 1 inquiry, the Committee believes that the potential use of crofting land for environmental, as opposed to other land uses, could have longer term and wider consequences than are perhaps anticipated at this time. Many crofting stakeholders raised concerns that the use of environmental land should not eclipse other, more traditional land uses. The Committee recommends that any future review of crofting law should include consideration of this issue.**

## Section 2 – Removal of timescales for deciding applications

79. Section 2 would remove the requirement for the Crofting Commission to respond to applications to put a croft to “another purposeful use” or to be absent from a croft within 28 days. The policy memorandum states the 28-day period is “arbitrary”, highlighting that there is no consequence if the Crofting Commission fails to meet this deadline and concludes “it is considered that the inclusion of these deadlines in legislation detracts from, rather than enhances, efficient use of the Commission’s resource”.
80. [When it gave evidence to the Committee on 24 September 2025, the Crofting Commission](#) said this provision would give it “slightly longer when that is necessary” to consider applications and would remove “a random number that was put in at some point”. The Crofting Commission added that it introduced a 28-day period for applicants to respond where applications are incomplete or information is missing which “has made a huge difference to the expectations of crofters and their agents” as well as having “contributed hugely to cutting the backlog [of applications]”.
81. Stakeholders, however, were less supportive of this provision due to concerns that it might result in delays. [Representatives from the legal profession, at the Committee’s meeting on 8 October 2025](#), argued that would be unfair for applicants, but not the Crofting Commission itself, to have to work to a 28-day deadline. Stakeholders also referred to lengthy delays in the past but recognised that this was not a present concern. Inksters Solicitors noted the resource implications of a 28-day deadline but suggested that “if 28 days is not seen to be reasonable, maybe it could be doubled, but going beyond that it probably taking it too far”.
82. During the [round table with crofting stakeholders on 29 October 2025](#), the National Farmers Union Scotland told members that it does not support this provision as “it is important to keep clear timescales”.

83. **The Committee asks the Scottish Government to respond to stakeholders' concerns regarding the removal of timescales for deciding applications.**

### Section 3 – Reporting on breaches of duties

84. The Crofting Commission is required to investigate reports of breaches of duties made by a grazings committee, a grazings constable, an assessor or a member of the same crofting community. Section 3 would extend this requirement to include reports from a member of the wider township, including subtenants or short leaseholders, and the landowner or croft owner. The policy memorandum states this amendment “will open up new avenues for important information to be submitted to the Commission”.
85. Section 3 would also remove the requirement for the grazings committee to report on each croft. As a rationale for this change, the policy memorandum highlights grazing committee clerks' concerns that reporting on family, friends and neighbours “could lead to local and personal tensions”.
86. Committee members discussed the issue of reporting on breaches on the [fact-finding visit to Skye in September 2025](#), when crofters highlighted that no crofter likes to report on their neighbours. Committee members also heard about the distress caused in some instances when grazing committees have reported on crofters in their community; the proposed removal in the Bill of this requirement was welcomed.
87. [When it gave evidence to the Committee on 24 September 2025, the Crofting Commission](#) told the Committee this provision would “simply formalise things that we are already doing”.
88. As stated earlier in this report, [representatives from the legal profession, when they gave evidence on 8 October 2025](#), were critical of the current reliance of the enforcement system on crofters reporting breaches of duties. Witnesses did not support extending the number of categories of people able to report on a breach. FMS Law told the Committee that, “to be quite honest, that is just going to lead to problems—it should not be encouraged in any way, shape or form” and Camus Consulting agreed, saying that “the answer ... is not to encourage members of a community to clype on each other—that comes with serious long-term consequences”.
89. A different perspective, however, was put forward by the [crofting representatives and stakeholder organisations at the Committee's round table discussion on 29 October 2025](#). The Scottish Crofting Federation told members that “we feel that the definition is probably still not wide enough” and that “the Commission could still choose to ignore a huge swathe of people who might report breaches”. Community Land Scotland agreed with this, suggesting the proposed definition “creates a bit of a straitjacket when it comes to whose report the Commission will listen to and act on”. Community Land Scotland said it was “broadly supportive” of using the geographic boundary of a parish rather than the township”. The National Farmers Union Scotland called for more evidence to be required to satisfy the residential

duty and for procedures for the breach of duties to be “more speedy and stringent”. At the same time, however, other stakeholders cautioned against extending the categories of those who could report a breach too widely. The National Farmers Union Scotland did not want “people who are well outwith that community” to be able to report breaches.

90. The Scottish Crofting Federation welcomed the removal of the requirement for the grazings committee to report on each croft.
91. Scottish Land and Estates told the Committee its members had mixed views over the inclusion of landowners in the categories able to report a breach. Scottish Land and Estates noted that some landlords felt it was a positive change, and that they may be a neutral party in any dispute, whilst others were “a bit more wary, as they do not want to get stuck in the middle of family disputes and that kind of thing”. Community Land Scotland said this provision is “broadly welcome”, although noted “that will be a conflicted power for them [landowners] to have”.

**92. The Committee notes the mixed views about section 3. The Committee asks the Scottish Government to respond to crofting stakeholder organisations’ suggestion that the number of categories of people who can report breaches which must be investigated by the Crofting Commission could be further extended.**

**93. The Committee notes the support for the removal of the requirement for the grazings committee to report on each croft. Given the evidence the Committee has heard about the distress this has caused in some crofting communities, the Committee agrees with this provision.**

## Section 4 – Enforcement of duties

94. Section 4 amends the current four-stage enforcement process to combine the first two stages. The policy memorandum states that, even if no appeals are made, the overall current process extends for over six months before any decisions are made, which “is not conducive to efficient resolution of breaches”. The policy memorandum confirms that, as the current safeguards would remain within the streamlined process, the process is “capable of being streamlined without unfairness to the crofter concerned”. Section 4 would also give the Crofting Commission the power to cease progressing an application from a crofter if that crofter has not provided information sought by the Crofting Commission in relation to an alleged breach of duty.
95. [In his 1 October 2025 letter, the chair of the Crofting Commission](#) confirmed that section 4 would help streamline the enforcement process.
96. At the [Committee's round table with crofting organisations on 29 October 2025](#), the Scottish Crofting Federation told the Committee this provision “is definitely welcome” in order to streamline the initial stages of the enforcement process.

97. The Committee notes, and agrees with, the support for this provision.

## Crofting Commission powers - sections 8 to 14

98. The policy memorandum states the Bill would give the Crofting Commission powers to “give it stronger autonomy”, particularly relating to decisions on applications to decroft land and in resolving issues affecting individual crofters or crofting communities.

### Section 8 – Assignations to family members

99. Section 8 would replace the current process for assignations, subletting, letting on a short lease or enlarging/dividing a croft with a fast-track process, where the Crofting Commission automatically grants consent in situations where four conditions are met. These four conditions are that the proposed assignee is a close member of the crofter's family; fulfils the residency duty; does not already have a crofting interest in three or more crofts and that the landlord has not objected. Thus, the fast-track process would also remove the current right for the crofting community to object to these assignations.

100. The policy memorandum states that the current process “may be unjustifiably onerous, slowing down regulatory decision-making and adding to the costs of both the Crofting Commission and the crofters”.

101. This provision was discussed at the [Committee's round table discussion with crofting representatives and stakeholder organisations on 29 October 2025](#). The National Farmers Union Scotland highlighted a “spread of different opinions about the three-croft limit”, especially from its members in Shetland where it is more common for crofters to own several crofts and “who had concerns about its potential to stifle active crofters”. The Scottish Crofting Federation said that the three-croft limit “feels a bit arbitrary, given that crofts vary so much in size”, and suggested a hectare limit instead, although noted that that “feels a bit arbitrary too”. Some level of regional discretion was also suggested, to take account of the different croft sizes in different parts of Scotland. The Comhairle nan Eilean Siar, Scottish Land and Estates and Community Land Scotland argued that the focus should be on whether the crofters' duties are being met and that some flexibility, or some kind of public interest test, might be useful.

102. When the [Minister gave evidence to the Committee on 12 November 2025](#), he told members that streamlining the assignation process would free up Crofting Commission resources for enforcement as “assignation ... is where the vast majority of the Commission's time has been taken up”. He later told members that “when a crofter wishes to assign to a family member who might already be resident in the community, our position is that the process is disproportionate”.

103. In relation to the three-croft limit, the Minister explained that the Bill “felt like it struck the right balance between the policy intention, which is to improve the efficiency of the service that is provided to customers, and concerns that there could be croft collecting or land banking by certain individuals”. The Minister explained that the

Scottish Government had not used a hectareage threshold because any deemed crofts, or unattached grazing shares, would be included and these do not have a set hectareage. In relation to the suggestion for some form of regional discretion, Scottish Government officials told the Committee that—

” if we go into the business of having a slightly different rule in one area and not in another, how would we justify not giving that slightly different privilege to a person who is exactly the same type of crofter as someone in Shetland, the Western Isles or Argyll but who happens to live in an area where the variation does not apply? That would be quite hard to do administratively.

104. The Minister sought to reassure the Committee about the three-croft limit, telling members that “it is normal and accepted for some crofters to run their business on multiple crofts, and we are not opposed to that in any way, shape or form”. The Minister reiterated that someone with an interest in three or more crofts who was making an application for another croft would be subject to the current assignation process which allows the local community to comment on the application. Scottish Government officials added that “the Commission's final decision will be based on the strength of what the local community says, if it says anything, and it will look favourably on any crofter who is using their croft, meeting their duties and completing their annual notice”.
105. The Minister noted that the simplification of the assignation of family crofts would support new entrants to crofting.

**106. The Committee notes, and agrees with, the support for the fast-track assignation and welcomes the Crofting Commission resources this change would free up to redirect towards the enforcement of crofters’ duties.**

**107. The Committee notes the concerns expressed by some stakeholders that the three-croft limit for the fast-track process might disproportionately impact on those crofters who have multiple crofting interests. Some stakeholders suggested alternative limits, such as total hectareage or geographic regions. The Committee notes, however, the Scottish Government's reasons for not using these alternative limits. The Committee also notes that those with a crofting interest in at least three crofts would still be able to apply for consent, it is just that these applications would not be considered under the fast-track process.**

**108. On balance, therefore, the Committee believes a three-croft limit would provide a fair basis for speeding up the assignation process and freeing up Crofting Commission resources, whilst also providing a check on ‘croft-bagging’ and enabling new entrants to crofting.**

## **Section 9 – Meaning of ‘owner-occupier crofter’ etc – and section 10 – Prohibition on transfers of owner-occupied crofts**



## to persons who are not individuals

109. Section 9 would amend the meaning of an ‘owner-occupier crofter’. Section 10 would amend the 1993 Act to clarify that all new owner-occupiers must be natural persons; this is already a requirement for tenant crofters. The policy memorandum states these proposals would address concerns about the “uncertain” impact of croft ownership being held by, for example, a limited company and what this means in terms of compliance with crofting duties.
110. On the [fact-finding visit to Skye in September 2025](#), members heard strong support for the prohibition on transfers of owner-occupied crofts to private companies. Concerns were also raised about the potential impact of this provision on community partnerships that own crofts and are engaged in effective croft management.
111. Members raised these concerns with the [Crofting Commission when it gave evidence on 24 September](#). The Crofting Commission told members it would be “quite content ... if a community housing trust charity or some other non-natural person inherited a croft, they would have a period of time to do something with it in the spirit of crofting legislation”.
112. When [representatives from the legal profession gave evidence on 8 October 2025](#), there was some discussion about whether section 10 would relate to the transfer of title, ownership of a croft, or the transfer of owner-occupier status. The Registers of Scotland called for clarification of the purpose of section 10—
- ” From listening to colleagues on the panel, it sounds to me as though section 10 deals with transfer of the title to the croft rather than with transfer of the underlying ownership, so the position would be that a transfer of the underlying ownership to a non-natural person would remain possible, but the non-natural person’s status as owner-occupier crofter would need to change. In some of the submissions, the view was expressed that what was struck at was the transfer of the underlying ownership, meaning that that would be null and void. I think that that is probably not the case, but it would be helpful for that to be clarified.
113. Camus Consulting set out the distinction between the ownership of a croft, which involves holding the title to the land, and owner-occupier status. It supported the proposed change which would enable a limited company to own a croft and thus act as landlord and let to a tenant or under a short lease, but which would prevent it from having owner-occupier status. Camus Consulting explained that—
- ” At the moment, the provision that allows limited companies to have owner-occupier status is being abused because the owner-occupier crofter has to comply with the statutory duties but a company can be based wherever, it can employ somebody locally and it can have one of its directors comply with duties. At the moment that is a door to an abuse of the system.
114. When it gave evidence at the [Committee's round table with crofting organisations on 29 October 2025](#), Community Land Scotland “broadly welcomed” section 10 but also explained its concerns relating to some “unforeseen consequences” that would prevent a rural housing body from using a rural housing burden to purchase crofting land or a community organisation would be prevented from buying a croft.

115. The Scottish Crofting Federation also welcomed the provision but highlighted that very few crofts are owned by limited companies and that the “bigger issue” is that “lots of people with owner-occupied crofts have just bought a nice house in the countryside”.
116. When the [Minister gave evidence to the Committee on 12 November 2025](#), he confirmed the Scottish Government was looking at how it could amend this provision at stage 2. A Scottish Government official explained—
- ” the way in which we have worded the provision in the bill means that, if an owner-occupier crofter sells their croft to a non-natural person, that transfer becomes null and void. We do not think that that should be the intention. What we should have is a system in which, if an owner-occupier crofter sells their croft to a non-natural person, the title can transfer and they will become the landlord of a vacant croft but the owner-occupier crofter's status will not transfer. That means that a local community body could become the landlord of the croft and could then decide who got that croft. We think that that addresses all the concerns that have been raised on the matter.

- 117. The Committee notes and supports sections 9 and 10 of the Bill. Concerns have been raised, however, about the potential impact of section 10, as drafted, on the ability of community organisations to purchase croft land and use it for crofting or housing purposes. The Committee welcomes the Scottish Government's reassurance that it is engaging with stakeholders to explore amendments to address these concerns. It asks the Scottish Government to provide an update on any proposed amendments in its response to this report.**

## Section 11 – Ten-year restriction on assignation and acquisition following Commission let

118. The Bill would introduce a ten-year restriction on a tenant crofter's right to buy in circumstances where the Crofting Commission has let a vacant croft. The policy memorandum states that Commission lets in these circumstances make a croft with a potentially high resale value available to a new crofter for little or no financial cost. It goes on to state that, “to protect the public interest, it is necessary to restrict the new tenant's options for taking the value of the asset out of the system in the initial years of their let”.
119. [When the Crofting Commission gave evidence to the Committee on 24 September 2025](#), it acknowledged assignations of this sort are “incredibly rare” but told members it supported this provision “100 per cent”.
120. When [legal representatives gave evidence to the Committee on 8 October 2025](#), Inksters Solicitors pointed out that there may be good reason for requiring consent to an assignation within ten years, such as ill health, divorce or death, and suggested that there should be a process to allow exceptions to this rule in exceptional circumstances.

121. **The Committee asks the Scottish Government to respond to some stakeholders' view that there should be some flexibility within the proposed ten-year restriction following Commission lets to allow tenants to exercise their right to buy.**

## Section 14 – Commission's powers to adjust boundaries

122. The Crofting Commission has the power to reorganise croft boundaries. The policy memorandum states that “typically, this involves adjusting the boundaries of crofts to make each croft more self-contained with coherent boundaries, while ensuring that the adjustments are fair to all the crofters involved”. Section 14 introduces a new application process for boundary adjustment which would allow crofters to alter boundaries without changing the extent of crofting tenure. It also introduces a separate process for boundary remapping which would apply where land is added to or removed from crofting tenure.
123. [When it gave evidence to the Committee on 24 September 2025, the Crofting Commission](#) highlighted its “day to day” frustration from dealing with incorrect boundaries and maps and stated “anything within reason and within our powers as a regulator that would allow us to make such changes [to boundaries] would be hugely welcome”. In his [1 October 2025 letter to the Committee, the chair of the Crofting Commission](#) added that this provision “means that obvious material inaccuracies can be adjusted without recourse to a time consuming and sometimes costly legal process”.
124. [When representatives from the legal profession gave evidence to the Committee on 8 October 2025](#), Camus Consulting referred to the crofting register as a “mess” and a “problem”, suggesting that 50% of all croft registrations, and up to 80-90% owner-occupied croft registrations, include inaccurate boundaries.
125. Inksters Solicitors expressed concern that amendments to the crofting register, intended to reflect the occupied extent, must be linked to the land register, which records the title extent. Inksters Solicitors suggested that the Bill does not adequately provide for these linkages. Inksters Solicitors told the Committee that “someone should not be allowed to amend occupied extent in the crofting register if that conflicts with title boundaries and could potentially introduce other landlords—if someone says that they are now part of a neighbouring croft but that is not reflected in the crofting register and another part landlord is brought in”.
126. The Registers of Scotland suggested that the Scottish Government was assuming that any parties involved in moving crofting boundaries would take the necessary conveyancing steps to ensure the land register is similarly updated. The Registers of Scotland did not know if that was a “likely assessment of people's actions in these circumstances” but acknowledged that this left the potential for creating disparity between the two registers.
127. When the [Minister gave evidence to the Committee on 12 November 2025](#), he confirmed the Scottish Government has “taken the concerns about boundary adjustments on board”. The Minister stated that officials were confident these

concerns could be addressed via amendments to the Bill.

128. **The Committee supports the proposed powers for boundaries adjustment and boundary remapping, noting the Crofting Commission's comments about how time-consuming and resource intensive it is to correct inaccuracies.**

129. **The Committee notes the concerns raised about maintaining linkages between the crofting register and the land register. Members welcome the Scottish Government's reassurance that these will be addressed through amendments to the Bill and asks the Minister to provide an update on any proposed changes in his response to this report.**

## **Common grazings - sections 15 to 18**

130. Common grazings are upland areas of shared land within a crofting township for which all crofters traditionally held a share to allow them to graze livestock. The policy memorandum sets out the importance of common grazings, stating there are around 1,000 grazings covering approximately 550,000 hectares, around two-thirds of all crofting land. Whilst some crofters still use the common grazings for livestock grazing, the use of common grazings has decreased in recent years as the overall number of crofters keeping livestock has declined.
131. Common grazings are managed by common grazings committees; members must be shareholders and are elected by other shareholders every three years.
132. The policy memorandum states the changes introduced by the Bill aim to bolster and strengthen the role of grazing committees, giving them and individual shareholders more options for proposing environmental initiatives – such as peatland restoration, forestry, habitat restoration and renewable energy schemes – on common grazings.
133. On the [fact-finding visit to Skye in September 2025](#), members saw that the activity of grazing committees varies drastically. Committee members heard about two relatively active grazing committees and observed an excellent example of one engaging in mutually beneficial initiatives, such as a sheep stock club and a hydroelectric scheme. Members were also told, however, that this level of activity is uncommon and that, even within active committees, many shareholders do not participate in managing the common grazing.

### **Section 15 – Common grazings: unattached shares etc.**

134. In recent years, as more tenant crofters have bought their crofts, some grazing shares have become separated from the inbye croft; in these circumstances, the crofter becomes an owner-occupier of the inbye croft but the grazing share remains in tenancy. The policy memorandum states this separation can happen intentionally or accidentally. The latter can occur, for example, when the grazing share is

mistakenly not included in a conveyancing. In these circumstances, when the croft is sold the grazing share remains in tenancy to the original crofter and, thus, the shares become separated from the croft they were originally attached to. These unattached grazing shares are deemed to be a croft in their own right and are known as a deemed or unattached croft. The crofting duties apply to a deemed croft. The Committee heard this mistake has caused many crofters time and expense to put right<sup>i</sup>.

135. Section 15 would amend the 1993 Act to prevent the unintended separation of grazing shares from the parent croft and make provision relating to the management of vacant unattached shares.
136. The issue of unattached shares was raised by many crofters who met the Committee on its [fact-finding visit to Skye in September 2025](#). Committee members heard from one owner-occupier crofter who, after nine years, has still not been able to acquire a share in his common grazing. Committee members also heard that some shares are still attached to deceased crofters or retained by people no longer involved with crofting.
137. [When it gave evidence to the Committee on 24 September 2024, the Crofting Commission](#) confirmed its support to prevent the unintended splitting of grazing shares and crofting land. It agreed that a “knock-on effect” of splitting grazing shares is that the unattached shares, or deemed crofts, remain in the sellers’ names, which can become forgotten about over time and which are challenging to unravel or can create additional crofts.
138. The Commission did not, however, support preventing the separation of shares altogether, telling members that there are lots of good examples of crofters not needing their grazing share and that there are processes in place to reallocate these.
139. [When legal representatives gave evidence to the Committee on 8 October 2025](#), FMS Law and Camus Crofting set out the background to the separation of grazing shares. Whilst it was recognised that some grazing shares were not included in the sale of crofts due to oversights during conveyancing, FMS Law also suggested that sometimes a landlord is reluctant to sell as they want to retain control over the common grazing. Camus Consulting and Inksters Solicitors highlighted the legal challenges around attached shares, which are called a quasi-servitude or a pertinent, in conveyancing. Camus Consulting explained that “a servitude is a thing but a quasi-servitude is not, so the Land Court has struggled to define it in legal terms”. The Registers of Scotland added that this issue does “present a significant challenge for the land register” as “we don’t know what quasi-servitudes are, and that presents a difficulty”. The Registers of Scotland agreed “it is difficult to sketch out a regime across both registers [land register and crofting register] that meshes them completely together ... unless you fundamentally change the legislative structure of the two registers, you will always face that challenge”. Inksters Solicitors added that, as the Bill does not prevent the separation of shares, the practice will continue and “so you will still have the same problem carrying on for ever, and there will be no clarity”.

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<sup>i</sup> FMS Law told the Committee it can cost £2,000 to £2,500 in legal fees to reattach grazing shares to the inbye croft.

140. Legal practitioners also raised concerns around the possible increase in value of grazing shares, especially in relation to the proposed changes to the use of common grazings and possible significant woodland development or wind farms. They highlighted the need for caution as “there could be significant litigation” around a process to reattach shares in these situations.
141. Camus Consulting argued that “the danger” is that the Bill is just more tweaking and went on—
- ” My preference is that the grazings shares provision be taken out of the Bill. The common grazings model is outdated and does not work for anybody, so it is ripe for serious reform and for an assessment of what we are doing with the crofting system—of what kind of system we want for our country. The provision in the Bill will not help us to get there.
142. When this was discussed with [crofting organisations at the Committee's meeting on 29 October 2025](#), the Scottish Crofting Federation told the Committee that section 15 is “absolutely welcome ... because that [the separation of shares] has just been a nonsense and has caused all sorts of issues in the past”. The Scottish Crofting Federation said that those people with inbye crofts which have become separated from the grazing shares are more limited in how they can work their croft which, thus, limits the viability of crofting.
143. The Scottish Crofting Federation said that the message from its members is that shares “should probably not be separated from the croft”.
144. Scottish Land and Estates highlighted that common grazings are two-thirds of all crofting land, yet half of them do not have grazing committees and, because of this, are unregulated. Scottish Land and Estates agreed that it should not be possible to separate shares or that, if they are to be separated, the grazing share “should be immediately assigned to an active crofter”.
145. The Comhairle nan Eilean Siar, Community Land Scotland and the National Farmers Union Scotland also supported an end to the separation of grazing shares from the inbye croft.
146. Crofting stakeholders also expressed general disappointment that the Bill does not go further in terms of reattaching separated grazing shares. Stakeholders discussed how the Bill could be amended to do this.
147. When the [Minister gave evidence to the Committee on 12 November 2025](#), he explained that Scottish Government officials had set up a common grazings sub-group with stakeholders to discuss the legal concerns. A Scottish Government official further explained that the group was seeking to identify an appropriate mechanism by which the grazing right can, as a default, be attached to the owner-occupied croft when it is transferred. The Minister told members that “we hope and think that we will alleviate most of the legal concerns that have been expressed” via amendments to the Bill.
148. The Minister noted calls for the Bill to prevent the separation of common grazings shares from the inbye croft. He set out his concern that, in the context of the decrease in the number of livestock kept on common grazings, this might result in “many more common grazings not being used at all, at least for extended periods of time”. The Minister stated “I do not think that there is a justification for insisting that

all the shares remain attached to the crofts in all circumstances”. He felt that “the decision should remain a matter of choice for the crofter”.

149. The Minister added that, having listened to these concerns, he believes that “the process requires a safeguard”. He indicated that the Scottish Government is looking to establish a process whereby a crofter would need to apply to the Crofting Commission to “state a reasonable purpose” for separating a grazing share from the inbye croft.
150. A Scottish Government official also referred to consideration being given, “subject to time allowing and the development of the Bill, to see whether we can identify a process by which grazing rights that have been accidentally separated can be reattached to the inbye croft interest”. Officials also referred to work being done to make the links between inbye crofts and their separated shares, which are currently difficult to match as they are listed in different parts of different registers, “absolutely public and evident, as well as formally legally linked”.
151. The Minister also said that the Scottish Government is exploring whether legislation could be amended to allow those with unattached grazing shares who have apportioned this into a deemed croft could apply to decroft a small area of land for a house site.

**152. Members heard evidence about the problems caused by grazing shares becoming unintentionally separated from the inbye croft and the Committee welcomes the Bill's provisions to prevent any future unintended separation of shares.**

**153. Noting the concerns raised by crofting legal experts around the status of a quasi-servitude or a pertinent in conveyancing, the Committee welcomes the Minister's assurances that this issue will be addressed by amendments to the Bill. The Committee requests that the Scottish Government provide an update on this issue in its response to this report.**

**154. The Committee also welcomes the Minister's statement that consideration is being given to a process to reattach shares that have been unintentionally separated. The Committee asks the Scottish Government to update it on this issue in its response to this report.**

**155. Most crofting stakeholders agreed that the Bill should go further by either prohibiting the separation of shares entirely or requiring any unattached shares to be allocated to an active crofter. The Minister expressed the view that permitting the separation of shares would help maintain the use of common grazings. He also confirmed that a safeguard will be introduced, requiring any future separation of shares to obtain Crofting Commission consent. The Committee considers that this safeguard could strike an appropriate balance between providing flexibility for those wishing to use**

**common grazings and ensuring effective oversight.****Section 18 – Use of common grazings for forestry or environmental purposes**

156. The policy memorandum details how crofting legislation “restrains alternative uses for common grazing land and makes it difficult for new projects or initiatives to be implemented, due to the processes which the law requires for demonstrating agreement among shareholders and landlords”. The policy memorandum adds that, due to the climate and biodiversity crises, “it is particularly important to make it easier for initiatives that enhance the environment to be taken forward on common grazings”.
157. Section 18 would amend the existing use of common grazings for forestry purposes and introduce a new use for environmental purposes. Environmental purposes would have the same meaning as for section 1 of the Bill. The Bill would also replace the current consent process which allows a landlord to refuse consent for an application to use a common grazing for forestry purposes by allowing the Commission to override a landlord’s objection. Section 18 would also make some other amendments to applications for forestry or environmental purposes.
158. On the [fact-finding visit to Skye in September 2025](#), members visited the North Talisker common grazing which operates a hydroelectric scheme alongside a sheep stock club.
159. [The Crofting Commission, when it gave evidence on 24 September 2025](#), told members that the Bill “will allow us and grazings shareholders to make the best use of the way that things are currently”. The chair of the Crofting Commission highlighted the use of common grazings are being “used suboptimally” and are “suboptimally productive, which is not sensible”. He raised the possibility of using the land for initiatives such as carbon sequestration, peatland restoration, woodland planting and the potential for wind turbines, concluding that “the common land has productive uses that may not necessarily be only about grazing; it could be used for the benefit of the country”.
160. It was felt amongst the [crofting stakeholders who gave evidence on 29 October 2025](#) that section 18 could provide the opportunity for joint ventures on the common grazing which would benefit both the landowner and crofters, but that there were a number of issues which needed to be clarified. Scottish Land and Estates said a “massive issue” is that some joint ventures on the common grazings are unable to progress because the landowner doesn’t know who holds all the shares.
161. Access to finance was also identified as a barrier and a number of stakeholders raised the current uncertainty around carbon credits. In particular, clarity is needed on who will have ownership and rights over credits on common grazings. These stakeholders stressed the need to ensure that benefits from any environmental use are shared. Community Land Scotland argued that “we need to think about how we can make that system deliver the land-use changes that we need rather than break up that system”. Community Land Scotland went on—



- ” A vast amount of the peatland that needs to be restored comes under the crofting system. ... If it is being monetised, how those benefits are shared is really important ... The issue that has not been bottomed out is the split of aspects such as benefits, risks, responsibilities and insurance.
162. The Scottish Crofting Federation told the Committee that the priority should be to support and enable crofters and landowners to work together to set up joint environmental ventures on the common grazings.
163. Both the Scottish Crofting Federation and Community Land Scotland discussed landowners’ right to refuse consent to an environmental use. Whilst both recognised some landowners’ interest in joint ventures on the common grazings, it was also noted that some landowners are less interested or visible and that the interpretation of consent in the Bill might be “a bit too wide”.
164. [When he gave evidence to the Committee on 12 November 2025, the Minister](#) stated that the Bill would provide crofters and landowners with a “legislative framework to help them to propose and take forward environmental initiatives on common grazings” and to enable them to access the relevant funding schemes and incentives. The Minister said that, although the legal ownership of carbon credits is not clear, he hoped the Bill’s provisions would “encourage crofters and landlords to start looking at and entering into joint ventures and to develop and secure shared solutions that benefit all parties”.
165. After the Committee’s meeting, the Committee wrote to the Minister to ask for an indicative timetable for when he expects the issue of the legal ownership of carbon credits to be resolved. In his [letter to the Committee, dated 5 December 2025, the Minister](#) acknowledged the concerns raised and that the “legal ownership of carbon credits is still to be fully determined and will be considered in due course”.
166. A particular concern raised in relation to section 18 was the potential for ‘land banking’ of common grazings shares by speculators and the use of common grazings for carbon credits. This was raised by the crofters who met with the Committee on its [fact-finding visit to Skye in September 2025](#).
167. In relation to concerns around ‘land banking, the Crofting Commission told members that—
- ” the ‘land banking’ scenario that you have cited is almost unheard of – its use is minimal. There are two or three places and voices that appear to think it is an issue but, from my perspective and judging from the statistics that we have, it is not.
168. Crofting stakeholders elaborated on the concerns around ‘land banking’ and land speculation. Community Land Scotland thought that the Crofting Commission risked “conflating land use change with the unattached grazings system” and that gazing shares should not be seen as having “profit-generating potential” as “they are an integral part of the crofting system; they are not an asset to be traded or speculated on”. The Scottish Crofting Federation also highlighted crofters’ concerns that the number of unattached shares would increase alongside speculation about carbon credits and ‘land banking’ as those selling their crofts will choose to retain their grazing shares. The Scottish Crofting Federation said “there is a big problem brewing here, which we need to get a grip of”.

169. Members of the Committee raised these concerns with the Minister on 12 November 2025. The Minister told the Committee that—

” I am very conscious of the fact that that is a potential area of concern as we go forward. However, it is also a massive opportunity when we consider the sheer scale of crofting land that has the potential to help us with our environmental desires and what we're trying to do as a country. We will definitely take a very close look at the issue. However, until we have clarity about the legal ownership we will just have to keep an eye on it.

170. **The Committee notes the broad support for environmental joint ventures between landlords and grazing shareholders and welcomes the provision to facilitate these initiatives.**

171. **At the same time, the Committee recognises that several outstanding issues could affect the ability of common grazings committees and landowners to progress joint environmental ventures. Concerns have been raised about the potential for increased speculation of crofting land, driven by expectations that environmental projects may yield financial returns. These matters need to be addressed to ensure that the vision of joint ventures, delivering benefits for crofting communities and the wider area, can be realised. The Committee invites the Scottish Government to respond to this point in its reply to this report.**

## Crofting register - sections 22 to 27

172. The [crofting register](#) is a map-based register of crofts, common grazings, and land held runrig which was introduced by the 2010 Act and is managed by the Registers of Scotland. Registration of a croft is a compulsory requirement triggered in certain circumstances, such as the assignation or division of a croft, although crofters can also make voluntary registrations.
173. The crofting register complements the [register of crofts](#) which contains information about each croft and the people linked to it and is managed by the Crofting Commission. The register of crofts is updated via the annual notice, more commonly known as the crofting census.
174. The policy memorandum states that the “basic elements of the system have worked well and will continue; but at a detailed level, some of the dovetailing between the Registers of Scotland’s role, the Commission’s role and the role of the Scottish Government are inefficient or confusing”. Sections 23, 25 and 27 are proposed to address this.
175. When the [Crofting Commission gave evidence to the Committee on 24 September 2025](#), it detailed the long-term ambition to retire the register of crofts, with the crofting register becoming the authoritative register. It was estimated that this would not happen for a number of years, however, as only 50% of crofts are registered in the crofting register.

## Section 26 – Rectification of the crofting register

176. Currently, the Registers of Scotland can proactively rectify mistakes in the crofting register made by itself but can only rectify mistakes made in the original application (which account for the majority of mistakes) or by the Commission if requested to do so by the original applicant or Commission. Section 26 would amend the 2010 Act to allow the Registers of Scotland “to correct typographical, clerical or administrative changes, without needing to inform anyone”. It would also allow the Registers of Scotland to correct, and the Commission to direct the Registers of Scotland to correct, “manifest, material errors where the means of correcting them is also clear”. There would also be a requirement for interested parties to be informed. The Bill would also give the Scottish Ministers the power, by regulations, to amend the list of those entitled to request a rectification of the register; the policy memorandum states this power “is taken in case it proves necessary in future to make further, similar adjustments to the provision”.
177. The policy memorandum states “these changes will provide a simpler and more cost-effective approach to crofting register rectification for clear and straightforward inaccuracies, allowing greater accuracy to be achieved; and will minimise the number of Scottish Land Court challenges”.
178. In its [submission to the Finance and Public Administration Committee on the financial memorandum, the Registers of Scotland](#) said that “the Bill’s rectification process proposals will result, where rectification is appropriate, in a quicker, easier and cheaper rectification process overall”.
179. When the [Registers of Scotland gave evidence to the Committee on 8 October 2025](#), it explained the need to “strike a balance with the rules on rectification”; the Registers of Scotland went on—
- ” You want to allow straightforward, obvious problems to be corrected without putting the party whose lives are affected by them to too much trouble in the form of expensive, time-consuming court action or whatever else, while also trying to ensure that the system gives a sufficient degree of certainty to people who rely on the registered boundaries.
180. The Registers of Scotland described the proposed changes as “probably sensible” as the current legislation is “very tightly drawn indeed”. The Registers of Scotland expected that its powers “would be used sparingly and only when the position is absolutely clear and not disputed by the parties” and that the Keeper would consult with crofters and then issue guidance on how the Registers of Scotland would use these powers.
181. [Legal practitioners who gave evidence on 8 October 2025](#) were more cautious about section 26, especially regarding the proposed power for the Crofting Commission to direct the Registers of Scotland to rectify the crofting register. Camus Consulting called this “quite a sea change” from the Crofting Commission’s current position where it does not take a view on boundary issues and asked on what basis and information the Crofting Commission would take a view in the future. Inksters Solicitors said this section “potentially opens up a can of worms” and that “the certainty that you have with the crofting register will never be a certainty if it can be changed”. Inksters Solicitors suggested this provision be amended so it can only be exercised “if every single person who was potentially

affected agreed unanimously”.

182. When the [Minister gave evidence to the Committee on 12 November 2025](#), he sought to reassure the Committee that the scenario noted by legal practitioners would not arise. The Minister told members that Scottish Government officials are in discussions with the Registers of Scotland and the Crofting Commission on this point. An official referred to the Bill's provisions that the Crofting Commission should contact all parties that have an interest and are affected by a rectification and that it must have regard to any representations.

183. **The Committee notes concerns expressed by some legal experts about the perceived breadth of the powers granted to the Registers of Scotland to rectify the crofting register. Given the reassurances from the Registers of Scotland about how it expects to use this power, however, the Committee is content with section 26.**

## Electronic communications - sections 28 to 30

184. The policy memorandum sets out that these provisions ‘modernise and broaden the methods available for serving notices, giving public notifications and holding meetings’.

### Section 28 – Services of notices

185. Section 28 would amend the 1993 Act to update the definition of ‘services of notices’ to include the use of electronic communications.

186. In his [1 October 2025 letter to the Committee, the chair of the Crofting Commission](#) explained this provision “means that the currently very prescriptive legislation (which in some cases makes reference to communication methods such as recorded delivery that no longer exist) can be replaced by more appropriate methods at the discretion of the Commission”.

### Section 29 – Public notification

187. Section 29 would amend the 1993 Act to replace the current requirement for public notifications to be advertised in local newspapers with the Commission website. The policy memorandum states this would create a single website to advertise all notifications.

188. [When it gave evidence to the Committee on 24 September 2025, the Crofting Commission](#) told the Committee the ability to decide how to communicate with people is “hugely welcome”. The Commission thought that crofters are “remarkably digitally connected” and that electronic communications are a far more effective, and cheaper, means of communication in remote and rural areas. The Commission acknowledged the “significant issues” around its digital capacity and current website.

## Section 30 – Crofting census notices

189. Section 30 would amend the 1993 Act to change the requirement on the Commission to serve an annual notice to crofters to make a declaration regarding their croft to have to do so at least every three years. The Bill would also change the name of the annual notice to the crofting census which is the name by which it is already generally known.
190. The policy memorandum states this provision is in response to crofters' frustration at having to provide the same information every year and to reduce the burden of this requirement on the Commission's resources.
191. [When it gave evidence to the Committee on 25 September 2025, the Crofting Commission](#) told members that it might continue with the annual crofting census in the short term as it wants to reach a return rate of between 95 and 100 per cent, after which it would hold the census less regularly.

192. **The Committee notes the Crofting Commission's comments that sections 28, 29 and 30 will provide it with welcome flexibility in terms of its communications with crofters. Although the Committee is content with these provisions, members recognise that not all crofters will have access, or a reliable connection, to the internet. Members expect the Commission will anticipate this and not wholly rely on electronic communications with crofters.**

## Simplifications and clarifications

193. The policy memorandum states these provisions would “make a range of simplifications and improvements to the way crofting is administered”.
194. [When it gave evidence to the Committee on 24 September 2025, the Crofting Commission](#) confirmed these provisions “are all fine and sensible and we are fine with them”.

## Section 32 – Appointed members: special considerations

195. The board of the Crofting Commission is comprised of six commissioners elected by crofters every five years and three commissioners appointed by the Scottish Ministers. The policy memorandum states that elected members bring strong crofting knowledge and experience but may not always bring the same level of corporate experience and that this sometimes means that “the choice of skill set of the appointee(s) can be at a premium”. The Scottish Government's appointments can sometimes be additionally constrained by having to meet the requirement for a Gaelic or landlord representative, if these requirements haven't been met by the elected members.
196. Section 32 would amend the 1993 Act to make the appointment of a landlord representative a recommendation, rather than a mandatory requirement. It would also require the Scottish Ministers to consult the Commission before finalising the

person specification for the vacant commissioner role.

197. When the [Minister gave evidence to the Committee on 12 November 2025](#), the Committee raised a concern expressed by Scottish Land and Estates that the provision to change the requirement for a landlord representative on the Commission's board would affect landlords' interests. The Minister responded that the provision would provide flexibility and he confirmed that—

” There is absolutely no desire to water down or dilute landlords' ability to be represented. It is just that, in this circumstance, there may be other, more effective uses of that place on the Commission.

198. **The Committee is content with section 32.**

## Part 2 – merger of the Scottish Land Court and the Lands Tribunal for Scotland

199. Part 2 of the Bill seeks to amalgamate the Scottish Land Court and the Land Tribunal for Scotland. The Court was established in 1911 and has powers to consider and resolve agricultural and crofting disputes between landlords and tenants. The Tribunal was created in 1949 and has jurisdiction to consider cases of land ownership, land use and access rights.
200. Section 35 provides that the Court will continue to operate as it does currently. Sections 36 to 39 would transfer the Tribunal's jurisdiction and functions to the Court. Section 36 also confers on the Scottish Ministers powers to use commencement regulations to set an “appointed day” for when the merger would take effect. Section 38 also gives the Scottish Ministers powers to make further provision in relation to the merger. Schedule 1 of the Bill sets out practical details of how the amalgamated Court would operate.
201. The policy memorandum states the proposed merger “will offer structural coherence, efficiency, and the delivery of a better service to litigants”. It details that the merger would also enable the unified body “to deploy personnel flexibly so that each case is dealt with by people with the appropriate expertise and skills”.
202. The policy memorandum also asserts that using delegated powers to complete the merger would allow the Scottish Government suitable time to “develop a new set of court rules, fee structure and importantly rectify the current inconsistencies in the remuneration of members of the two bodies”.
203. The DPLR Committee considered the delegated powers set out in section 38 and found “the power acceptable in principle and is content with the specified parliamentary procedures which are dependent on whether or not the power is exercised to amend primary legislation”.
204. As part of a report published in 2023 into the [effectiveness of environmental governance in Scotland post EU-exit](#), the Scottish Government outlined that it did not support the establishment of a dedicated environmental court in Scotland. The policy memorandum reaffirms this position but goes on to state that “it is intended that consideration will be given to the expanded Land Court taking on new functions in relation to Aarhus cases in time to come; the Bill allows for this by permitting Scottish Ministers to adjust what is (or is not) within the competence and jurisdiction of the Court”.
205. The decision to merge the Court and Tribunal follows a [consultation by the Scottish Government in 2020 on ‘The future of the Land Court and the Lands Tribunal’](#). The consultation sought views on three issues; whether the Court and Tribunal should be merged; whether the merged body should be a court or tribunal; and whether the merged body should take on any additional functions. The Scottish Government published a [consultation analysis on the proposed merger of the Court and Tribunal in 2021](#). The analysis reported “an even split” on the question of the proposed merger. The “main reason” given for support was that it “would mean a more efficient administration of the services that the Land Court and the Lands Tribunal

currently offer”. Those opposed to the merger, however, argued that the two bodies “are quite distinct and that the resolution of the disputes [...] requires different approaches” and that “a unitary set of court rules would not be appropriate”. The analysis also noted there was a strong preference amongst respondents for a unified body to be a court rather than a tribunal because “a court has higher status and is more authoritative”. Some considered that a court “may be a more suitable for taking on extra functions”. The consultation asked whether the merged Court should take on more functions; a “slight majority” supported the extra functions suggested in the consultation, the main suggestion beyond that was that an expanded Court could take on functions relating to environmental law.

## General views on the merger

206. Responses to the Committee's call for views tended to focus on part 1 of the Bill but those responses which did comment on part 2 were broadly supportive of the merger. Some stakeholders noted how the merger could bring operational improvements by reducing bureaucracy. In his [letter to the Committee, the Hon Lord Duthie, the chair of Scottish Land Court and President of the Lands Tribunal for Scotland](#), welcomed the part 2 provisions and said that “it is pleasing to see that progress is now being made towards the more effective and streamlined service that was then [when the merger was first raised] envisaged”. The Law Society also noted that combining both legal jurisdictions “would be useful in order not to have to raise two applications, one with each body”.
207. At the same time, however, some notes of caution against the merger were raised, mainly around ensuring the merger was not driven by a need to cut resources. The Law Society raised concerns that “there is not a lot of fat to be trimmed and we do not want the merger to be seen just as a way of saving money and reducing capacity”. Scottish Land and Estates also called for the Court to be adequately resourced to cope with its additional workload but asserted that “one of the reasons for streamlining would be to help with that”.
208. When she [gave evidence to the Committee on 5 November 2025, the principal clerk to both the Court and Tribunal](#) described the benefits of the merger. She explained that the administration teams for both bodies have “gradually been merged over the past four years, which we have found to be very beneficial” and that “the biggest benefit is the fact that two very small teams have become one slightly bigger team, which gives us much more flexibility”. She added that the benefits would extend to the operational aspects of the merged Court, as well, telling members that—
- ” Although I am not legally qualified, I see that as being very much a benefit for the members as well. For example, it would mean that they could, without special provisions being made, change jurisdictions within our business. In the past, although it has been possible for a legally qualified member of the Lands Tribunal to take a case in the Land Court when none of the Land Court members could do it, we have had to go to the Scottish Government to get that person specially appointed, which requires a lot of extra time and energy for no particular benefit.
209. [When he gave evidence on 12 November 2025, the Minister](#) assured the Committee that “the merger will not result in any diminution of the ability of the Tribunal or the Court”. He explained that “the proposals in part 2 of the Bill will bring



about practical improvements, while safeguarding the proud heritage and expertise of both institutions”.

210. **The Committee notes the evenly divided views among stakeholders who responded to the Government’s consultation on the proposed amalgamation of the Court and Tribunal. Members also note the administrative teams of both bodies have already been integrated, delivering greater flexibility to meet their respective needs. While the Committee is aware that some stakeholders are concerned that the merger may be motivated by cost-cutting, it is reassured by the Minister’s confirmation that the policy objective is to streamline and improve the operation of the Court and Tribunal.**

## Operational matters pertaining to the Court

211. A number of issues and concerns relating to the implementation of the merger and impact on the operation of the amalgamated Court were raised in evidence to the Committee.

### Expertise within the merged Court

212. Developing judicial expertise within the amalgamated Court was identified by some respondents as a priority. In [written evidence](#), [ScotWays](#) said that “moving land reform access cases to the expanded Land Court represents an opportunity to specialise”. [ScotWays](#) added that, “currently the Land Court does not require expertise in access cases, but such expertise could readily be acquired with appropriate training and research”. [Ramblers Scotland](#) also thought that, “given that the Scottish Land Court currently has a focus on agricultural matters, then widening the pool of expertise is important”.
213. When asked about the issue of members’ expertise, the [principal clerk to both the Court and Tribunal](#) confirmed she did not have any concerns around this, arguing that the merger “gives us more flexibility and more opportunities to build up knowledge that will help us across the board”.
214. When the [Minister gave evidence to the Committee on 12 November 2025](#), he assured the Committee that—
- ” there will be no dilution or diminution of expertise. The newly expanded Land Court will retain and, indeed, strengthen the depth of specialist knowledge that is available.

215. **The Committee notes some stakeholders’ concerns about the judicial expertise within the merged Court’s membership. However, the committee is reassured by the Minister’s expectation that expertise will be retained and strengthened by the merger.**

## Lack of a requirement for internal appeals against a Tribunal decision

216. The [Hon Lord Duthie in his letter to the Committee](#), highlighted that, due to the different procedures, some Court decisions can be subject to internal appeals but there is no equivalent for an appeal on a point of law against a Tribunal decision. Lord Duthie told the Committee that—
- ” no provision is made to replicate the different procedural arrangements for cases which currently form part of the Lands Tribunal's jurisdiction. If enacted in its current form, the Bill would have the result that other than in cases where the presiding legal member is the chair, decisions in land registration, title conditions, electronic communications code and disputed compensation cases would all be subject to internal appeal. This is a significant innovation on the status quo. The Bill would increase the workload of the enhanced court leading to congestion in the disposal of cases with no obvious corresponding benefit. It would necessitate additional resourcing to meet the increased workload.
217. Lord Duthie suggested that retaining and transferring over the Tribunal's existing corresponding provisions would address this issue.
218. The [principal clerk to both the Court and Tribunal](#) also spoke to the practical implications of this provision, as currently drafted, in terms of an increased workload and corresponding demands on members' and staff time.
219. At [the Committee's meeting on 12 November 2025](#), a [Scottish Government official](#) said they were aware of concerns raised around this matter and that “we are actively considering how to get that right through amendments”.
220. **The Committee notes the Scottish Government's intention to address concerns relating to the Court's internal appeals process through amendments to the Bill. The Committee requests the Scottish Government provide an update on its approach to this issue in its response to this report.**

## Requirement for a Gaelic-speaking member of the Court

221. The requirement that the Court continue to have at least one Gaelic-speaking member was raised in evidence to the Committee. [One respondent, Matthew Sutherland](#), “particularly” welcomed the decision to retain this requirement on the basis that it “respects the cultural context of crofting communities”. The [Hon Lord Duthie](#), however, suggested this requirement “inevitably restricts the pool of candidates for appointment”; he highlighted there have been no Gaelic applications in the past ten years and that an application in Gaelic would still require a translator as it would be unreasonable for the Gaelic member to translate alongside their formal role. Lord Duthie also highlighted that there is no corresponding requirement for a member of court staff to speak Gaelic.
222. The [principal clerk to both the Court and Tribunal](#) also emphasised the need for an

interpreter, even with a Gaelic-speaking member present, as, “in the interests of open justice, we would want to be seen to ensure that everybody could understand what was going on”.

223. The [Minister told the Committee on 12 November 2025](#) that he believed the inclusion of the Gaelic-speaking requirement in the Bill was “vitally important”. He argued the requirement “created an opportunity for Gaelic speakers to use their language of preference” and was also an “important recognition of the worth of the language and of its speakers”. The Minister added that “there is reasoning in the Gaelic language that does not transfer into English, meaning that an argument can sometimes be made properly only in Gaelic, and it requires a Gaelic speaker to fully understand the points”.

224. **The Committee agrees with the Minister's reasoning for retaining the requirement for a Gaelic-speaking member of the Court and recognises this reflects the cultural importance of the Gaelic language in crofting and farming communities in Scotland.**

## Other issues raised with operation of merged Court

225. The [Hon Lord Duthie](#) also highlighted a further three issues with the proposed transfer of jurisdictions and functions of the Tribunal to the Court.
226. First, Lord Duthie referred to the current different eligibility criteria, which would be retained by the Bill, for appointment to the Court and Tribunal, as well as the role of chair and deputy chair of the Court. Lord Duthie suggested that the criteria for appointment as a legally qualified member of the Tribunal, persons appearing to be suitably qualified by the holding of judicial office or by experience as an advocate or solicitor, should be extended to the role of deputy chair.
227. Second, Lord Duthie highlighted that the Bill would retain the current situation whereby crofting law appeals are by ‘special case procedure’ but not for appeals in agricultural holdings jurisdiction. Lord Duthie stated there is no obvious rationale for retaining two appeal methods and that “appeals by special case required the expanding of a significant amount of time and resource by the Court, when compared with straightforward appeals on a question of law”.
228. Third, Lord Duthie referred to the proposal to replace the current allowance for the Court, with Scottish Ministers’ approval, to “prescribe such forms of application and other forms of procedure as it thinks proper” (rule-making powers). The Bill would change this to a Court of Session act of sederunt after consultation with the Scottish Civil Justice Council. Lord Duthie suggested the Bill be amended to require consultation with the chair of the Court.
229. Other detailed comments were made in responses to the call for views and these are set out in Annexe B.

230. **The Committee would welcome a response from the Scottish Government**

**to each of these points in its response to this stage 1 report.**

## Environmental court

231. A number of stakeholders believed the merger offered an opportunity for the Court to take on the characteristics of an environmental court through expanding its legal jurisdiction to issues of environmental rights. In its [response to the call for views, the Environmental Rights Centre for Scotland](#) set out its support for the establishment of an environmental court on the basis that this “would increase access to justice, address fragmented routes to remedy, and develop judicial expertise”. Community Land Scotland also supported the Court taking on this role, suggesting this would create a “one-stop shop for land and environment cases and increasing administrative efficiency with the judicial system”. At the same time, however, the Environmental Rights Centre for Scotland did not support the ‘merged court could be used in time to come re Aarhus cases’ approach set out in the policy memorandum. The Environmental Rights Centre for Scotland told the Committee it—

” opposes an incrementalist approach to increasing the environmental functions of the Scottish Land Court and opposes leaving the jurisdiction of the Court solely at the discretion of Scottish Ministers. ... the phrase ‘in time to come’ exposes the Scottish Government’s lack of urgency in addressing this issue. Scottish Ministers are clearly opposed to establishing an environmental court and we have no confidence that they will consider this matter further if it is left to their discretion.

232. The Committee discussed the scope of a merged Court and Tribunal to take on some functions of an environmental court with the [principal clerk to both Court and Tribunal](#). She told the Committee that it already considers some cases relating to environmental issues, such as appeals against the Scottish Environment Protection Agency decisions. She acknowledged, however, that “a full-scale environmental court is a very different thing”, adding that “if it was going to mean a significant increase in workload, questions would definitely have to be asked about resourcing, the technology that we use and all the rest of it”.

233. The Minister responded that the amalgamated Court would not take on the functions of a full environmental court; he confirmed that it is the role of Environmental Standards Scotland to ensure that environmental governance system works effectively. The Minister confirmed that—

” It is clear that the new, expanded Land Court will work primarily within the context of Scottish farming and crofting. It does not have universal jurisdiction to deal with all matters relating to land. Complicated environmental cases are likely to cover a number of issues, such as cultural, social and economic. As a result, such cases, among other issues, should continue to be considered in the current courts and tribunals system.

**234. The Committee notes that, while the Scottish Government does not support**

**creating a dedicated environmental court, both the policy memorandum and the earlier consultation on the merger anticipate that the expanded Land Court could, in future, take on additional functions including in relation to Aarhus cases and elements of environmental law.**

**235. The Committee further notes operational evidence from the Scottish Land Court that it is accustomed to handling “niche jurisdictions” across different legislation and that it already considers certain environmental matters (for example, appeals relating to Scottish Environmental Protection Agency decisions). The Scottish Land Court also acknowledged that any significant expansion of workload would require careful consideration of resourcing and capacity.**

**236. The Committee, therefore, considers it important that any future proposal to extend the merged Court's competence of jurisdiction, whether to Aarhus cases or other environmental functions, should be brought forward transparently, with clear information on scope, resourcing and access to justice impacts and by regulations subject to the affirmative procedure to ensure appropriate parliamentary scrutiny.**

# Conclusion

237. **The Rural Affairs and Islands Committee agrees with the general principles of the Crofting and Scottish Land Court Bill.**

# Annexe A: Minutes of meetings

## [20th Meeting, 2025 \(Session 6\) Wednesday, 12 June, 2025](#)

**Crofting and Scottish Land Court Bill (In Private):** The Committee considered its approach to the scrutiny of the Bill at Stage 1. It agreed a draft call for evidence, schedule for oral evidence sessions, to undertake a fact-finding visit and to consider the evidence heard at each meeting, and all draft reports, in private at future meetings.

## [26th Meeting, 2023 \(Session 6\) Wednesday, 24 September, 2025](#)

**Crofting and Scottish Land Court Bill:** The Committee took evidence on the Bill at Stage 1 from—Gary Campbell, chief executive and Andrew Thin, chair, Crofting Commission.

## [28th Meeting, 2025 \(Session 6\), Wednesday 8 October 2025](#)

**Crofting and Scottish Land Court Bill:** The Committee took evidence from— Stephen Cranston, Member of sub-committee on Rural Affairs, Law Society of Scotland; Brian Inkster, Chief Executive, Inksters Solicitors; Chris Kerr, Director of Policy and Corporate Services and Accountable Officer, Registers of Scotland; Katie MacKay, Director, FMS Law; and Eilidh Ross, Crofting Law Specialist, Camus Consulting

## [29th Meeting, 2025 \(Session 6\), Wednesday 29 October 2025](#)

**Crofting and Scottish Land Court Bill:** The Committee took evidence from— Dr Josh Doble, Director of Policy and Advocacy, Community Land Scotland; Sandra Holmes, Head of Community Assets, Highlands and Islands Enterprise; James MacKessack-Leitch, Policy and Practice Lead, Scottish Land Commission; Jackie McCreery, Legal Adviser, Scottish Land and Estates; Rhianna Montgomery, Rural Business Policy Manager, National Farmers Union Scotland; Anne Murray, Chief Officer, Economic and Community Regeneration, Comhairle nan Eilean Siar; and Donna Smith, Chief Executive, Scottish Crofting Federation.

## [30th Meeting, 2025 \(Session 6\), Wednesday 5 November 2025](#)

**Crofting and Scottish Land Court Bill:** The Committee took evidence from— Alison Irving, Principal Clerk, Scottish Land Court and the Lands Tribunal for Scotland.

## [31st Meeting, 2025 \(Session 6\), Wednesday 12 November 2025](#)

**Crofting and Scottish Land Court Bill:** The Committee took evidence from— Jim Fairlie, Minister for Agriculture and Connectivity, accompanied by Bill Barron, Crofting Bill Team Advisor, James Hamilton, Lawyer and Michael Nugent, Bill Team Leader, Head of Crofting Policy, Scottish Government; and then from — Jim Fairlie, Minister for Agriculture and Connectivity, accompanied by Martin Brown, Solicitor and Marion McCormack, Civil Courts, Justice Transformation and Inquiries, Scottish Government.

## [36th Meeting, 2025, \(Session 6\), Wednesday 17 December 2025](#)

**Crofting and Scottish Land Court Bill:** The Committee considered a draft Stage 1 report. Various changes were agreed to. The Committee agreed to consider the final revised draft by correspondence.

# Annexe B: textual amendments to the Bill suggested in responses to the Committee's call for views

## Part 1

**Section 1(3)(d)** – the Law Society of Scotland suggested the definition of environmental use “does not specify that the use must benefit the environment” and highlighted the “definition introduced by section 18(3) as a potentially more appropriate definition”.

**Section 1(3)(d)(8B)** – the Law Society suggested “it is appropriate to include provisions in the Bill that ensure that removing a purpose from 8A would not prejudice those who had made long term commitments to particular uses prior to the removal of that purpose, rather than being left to secondary legislation”.

**Section 4(3)** – the Law Society suggested “consideration should be given to adding an additional subsection to require the Commission to progress matters where the Commission is reasonably satisfied that the application is, or is part of a scheme which is, intended to resolve the breach of duty”.

“In specific regard to the proposed new section 19BA(3) of the Crofters (Scotland) Act 1993, we suggest consideration should be given to introducing a means for the application to be advertised and the community given the opportunity to object. This would allow for a safeguard in preventing misuse by landlords to bring land back in hand. We would also suggest consideration should be given to introducing a requirement that applicants are in compliance with the relevant duties, even if technically those duties do not apply to them, as a further safeguard”.

**Section 9** – Inksters Solicitors highlighted some unforeseen circumstances from the wording of the proposed section 19BA(1) to the 1993 Act as it would not apply to applications where there are separate owners of the overall croft. Inksters Solicitors recommended amending the provision to require the owner to show what part of the croft they own and that they are seeking to become the owner-occupier of that part of the croft.<sup>ii</sup>

**Section 10(2)(2)** – Inksters Solicitors suggested this provision may have unforeseen circumstances as it may be interpreted as referring to one individual and excluding circumstances where there is more than one individual. Inksters Solicitors recommended amending “person” to natural person or persons” to address this.<sup>iii</sup>

**Section 14** – the Law Society suggested “it may be appropriate to distinguish between the 2 types of registers referred to by this Bill and the Crofting Act 1993. We would highlight with slight concern how a boundary adjustment would interact with the 9-month challenge period and have further comments on potential resolution in our answer to question 2. We would highlight similar concerns regarding the proposed section 39B(6).”

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ii Rural Affairs and Islands Committee, 8 October 2025, col. 39. Available at: <https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/ssblrc-08-10-2025?meeting=16631>

iii Rural Affairs and Islands Committee, 8 October 2025, col. 16.



**Section 14(5)** – the Law Society recommended “that any of the crofters or owner-occupier crofters should be able to register the direction. The current wording might be read as requiring them all to do so, raising questions about what happens if some do and some do not”.

**Section 15** – the Law Society stated that “the proposed grazing right does not easily fall into any pre-existing category of rights. We would therefore consider that this makes the proposed relationship between the crofter and the owner of the grazings unclear in the legislation and would welcome clarity from the Scottish Government under what category of rights it considers this provision to fall. We would highlight that lack of clarity in this area could affect what enforcement action could be undertaken by the Crofting Commission”.

“We would also welcome clarity on how the Scottish Government considers that this will impact on the role of the Keeper of the Registers of Scotland in relation to common grazings”.

It highlighted the “potential for unintended consequences concerning this section. We would query what avenue the owner of the grazings has to enforce against the party holding a pertinent right of grazing. We would suggest that the Bill should address the outcome of *Zetland Estate v Crofters* 2025 SLC 4 concerning the right to various crofts on Zetland Estate. In this case, it was held that an apportionment of such a right creates a tenancy that is rentable. We would welcome clarity on whether this would still be the intention following passage of the Bill. We would also highlight that consideration should perhaps be given to inclusion of an express provision that this right only applies to conveyances granted and/or registered after a particular date”.

The Law Society suggested “that in the proposed new section 52(1E)(b)(ii)(A) of the Crofters (Scotland) Act 1993 that the Scottish Government use a word other than “apportion”, given this already has a different meaning in relation to common grazings.

Regarding the proposed new section 52ZA, we would suggest that the term “owner of the common grazings” would perhaps be a more appropriate term than “owner of the share”.

“We would highlight that this section does not appear to provide a mechanism for “re-attaching” the share to its original main croft, although it could put it into the same hands as the main croft. Paragraph 121 of the policy memorandum states that this will reattach the shares, which become a pertinent of the main croft. We would welcome clarity on this point on the face of the Bill”.

**Section 17** – the Law Society suggested the new section 47A(6) includes no provision for an ordinary shareholder to appeal and no provision for an appeal against a decision of the Commission to not remove the committee.

**Section 18** – the Law Society noted “the grounds upon which the owner may refuse consent are similar to those which exist for woodland planting but with some important revisions (which would also apply to woodland consent going forward)—

1. The implementation of the proposal will need to be “substantially” detrimental to the sound management of the estate in order to be able to refuse consent (at the moment there is no substantiality requirement).
2. Failure to respond or make a decision within 6 weeks will now result in a deemed consent rather than a deemed refusal. There is no means to appeal that decision.

3. Once the owner has consented (either expressly or by failing to respond) or refused an application, the grazings committee must then apply to the Commission to determine that the decision is reasonable. The Commission may effectively override the landlord's decision. The Commission must consult the owner at this stage, and once its decision is registered in the Register of Crofts it will be binding on successors unless the use has not commenced within 7 years. There is a right of appeal against the Commission's decision under the general appeal provision in section 52A of the Crofters (Scotland) Act 1993. The owner has to appeal within 42 days of the Commission "disposing of the application" but there is no requirement for the Commission to notify the owner of their decision, meaning the owner may not necessarily know when the 42 day period begins".

It further stated that "these changes contain the potential to impose new requirements on landowners and that we would welcome clarity from the Scottish Government regarding how the provisions relating to lack of appeal for deemed consent align with Article 1 of Protocol 1 to the European Convention on Human Rights (ECHR) and Article 6 of the ECHR".

**Section 18** – Community Land Scotland highlighted that section 50ZA(3) provides no role for the Crofting Commission when a landowner grants unconditional consent for environmental use on a common grazing. Community Land Scotland suggests this "seems slightly odd—it does not align with other situations, in which the Commission is responsible for determining applications". Community Land Scotland recommended amending "must" to "may" to give the Crofting Commission the scope to consider the issue.

**Section 19** – the Law Society noted that, regarding the definition of crofting community within this section, including the use of 'persons'—

"We previously highlighted the practical problems of the current wording in section 25(2) of the Crofters (Scotland) 1993 Act in our 2020 paper. If the desired approach is to reflect taking account of the general interest of crofting within a "district", we suggest that this could be resolved by removing the word "community" from the subsection which would then provide that the Commission "shall have regard to the general interest of ...crofting...in the district in which the croft is situated".

"In addition, the use of the variety of terms "locality", "area" and "district" through the Crofters (Scotland) Act 1993 lacks clarity and consistency. The legislation should be amended either to use the same term or for terms to be clearly defined and how any such definition relates to the primary definition of crofting community as introduced in this Bill".

**Section 22** –the Law Society said that the provisions under this section "do not appear to catch nominee purchases (i.e. where the crofter exercises the right to buy but title is taken by a member of their family)".

**Section 23** – Inksters Solicitors queried if this provision would "potentially facilitate solicitors submitting applications to use their RoS FAS number for payment?"

**Section 23** –the Law Society said that "as applications are still to be submitted to the Commission in the first instance, much will depend on the arrangements to be made for payment of fees. For solicitors with accounts with the Registers of Scotland, this could work well. Where a crofter is not instructing a solicitor, it is not clear how this would work in practice and how the Registers of Scotland would deal with payments if the forms are in the first instance going to the Commission. We would welcome clarity on how the Scottish

Government envisions this process working in practise”.

**Section 24** –the Law Society noted that “the inclusion of a timescale is perhaps unnecessary, as there is no compulsion on the landlord to do anything when notified nor on the crofter take any comments from the landlord into account. Consideration should be given to whether it is appropriate to require notification of the landlord formally at the same point of notification for neighbours to the croft”.

**Section 26** – the Law Society suggested “that consideration should be given as to whether there should be a provision to include an appeal against any question of fact or law, in line with section 103 of the Land Registration (Scotland) 2012 Act for appeals against the Keeper relating to the Land Register”.

**Section 27(2)** –the Law Society highlighted “it would be unusual that Scottish Ministers would ever use the power to change forms and override the forms as prescribed by the Keeper. We would highlight that section 27(4) can’t be commenced until the new forms are in place”.

**Section 28** –the Law Society suggested “consideration should be given to including a provision that states that service on an agent noted on the Register of Crofts should be specifically deemed to be service on the principal”.

“Secondly, regarding the new section 55(2)(a) of the Crofters (Scotland) Act 1993, we would suggest that consideration should be given to enabling a more flexible approach i.e. by amending this sub-section to conclude with “and/or (as the case may be)”. It may be, for example, that the name is known but not the address or vice versa”.

“Thirdly, we are unclear on whether fixing a notice to a conspicuous object is an appropriate method of service on a landlord and would suggest consideration should be given to whether the inclusion of this provision is appropriate”.

“Fourthly, in the new section 55(3)(b), we would highlight that the principal office for a partnership is not always readily identifiable and can change without public notice being given. The provision is only one mechanism by which notice “may” be served but another provision, such as that it may be served on any partner of the partnership, may be a more useful provision in practice”.

**Section 33** –the Law Society said the “provisions relating to the Chairing of Commission meetings and committees there is no provision present if the Chair is unexpectedly absent and therefore unable to delegate that role. We would suggest that this should be resolved via amendment at Stage 2 or Stage 3”.

**In addition**, the Law Society also highlighted that a number of recommendations from its 2020 paper were not addressed in the Bill. These unaddressed recommendations are detailed below, organised under the four subject areas from the original paper.

### **Aspects of succession**

In its 2020 paper, the Law Society set out that “the issues relating to the rules for agricultural tenancies and croft tenancies. We would suggest consideration should be given to clarifying the relevant sections of the Succession (Scotland) Act 1964 Act to set out the differing rules applying to agricultural tenancies and croft tenancies clearly”.

Regarding the provision for applications made under section 16 of the Succession

(Scotland) Act 1964 to be made under the jurisdiction of the Land Court, the Law Society highlighted that the Bill does not provide a single 24-month period that it had previously highlighted as an issue. The Law Society suggested “consideration should be given to providing for a single 24-month period from the date of death”.

The Law Society “consider that this Bill would be an appropriate vehicle through which to provide clarity in the law as to the approach which should be taken where the tenancy has not been brought to an end under section 16(3) of the Succession (Scotland) Act 1964, no transfer has been undertaken within the required period (or such longer period otherwise fixed) and where the Commission has not taken steps under section 11(4). This could include—

- Providing provision, on the face of the Bill, for an application process whereby an executor, landlord or potential beneficiary may apply to the Commission for leave to transfer a tenancy outwith the 24 month period and in the absence of agreement or a court order. Such an application should be on a ‘on cause shown’ basis and it be within the discretion of the Commission as to whether to grant such an application. The right of the landlord to serve a notice terminating the tenancy would be suspended pending the outcome of the application.
- Any consent would not have the effect of transferring the tenancy or right as this would require confirmation, but would enable the executor to transfer the tenancy competently once he or she has obtained confirmation and has carried the formalities of transfer.
- In some circumstances, the expense of, for example, obtaining confirmation and a bond of caution simply to allow a tenancy to be transferred could be spared before it is known whether consent to the transfer will be granted.

“We consider it appropriate that this application process should be placed alongside the powers of the Commission in section 11(4) of the Crofters (Scotland) Act 1993 and be subject to the right of appeal to the Land Court”.

“We would urge the Scottish Government to insert a definition of ‘bequest’ into section 10 of the Crofters (Scotland) 1993 Act as being either a specific legacy or a legacy of residue”.

“We would welcome a clear statement from the Scottish Government regarding the means by which a transfer of a croft tenancy may be effected”.

“We also think it appropriate that this Bill should be used as a means to clarify the law to confirm the position of a landlord where a transfer is carried out within the required 24 month period but is not notified to a landlord timeously. Under the current law, it appears that the landlord could not terminate the tenancy under the Succession (Scotland) Act 1964 in such circumstances”.

“We also consider it appropriate that the pro-forma docket to the Succession (Scotland) Act 1964 should be updated to take account of the changes made under the Crofting Reform (Scotland) Act 2010 in relation to the suggested wording for the transferee”.

### **Owner occupier status**

The Law Society welcomed “the introduction of an application process to allow an individual to apply to the Commission to obtain owner-occupier crofter status. It is unclear

whether this process is subject to a right of appeal to the Scottish Land Court and would welcome clarity from the Scottish Government on this point". "Regarding the condition relating to letting in section 19B(4) of the Crofters (Scotland) Act 1993, we previously stated that this should be amended to include at the end of the subsection: "unless it was subsequently renounced or otherwise terminated by operation of law ". We consider this Bill an opportunity to achieve this and urge consideration of this amendment". They further stated that "section 19B of the Crofters (Scotland) Act 1993 appears to prevent someone who has acquired a landlord's interest in a croft from becoming an owner-occupier crofter. We would welcome clarity from the Scottish Government if they regard this as an unintended consequence of the legislation. If this is an unintended consequence, we consider that this should be amended, recognising that section 19B aims to prevent those who are landlords (whether traditional crofting estate owners or those who have deliberately set up a landlord/tenant relationship) from becoming owner-occupier crofters". "We consider it appropriate that the legislation should be amended to clearly state the types of persons who may be owner-occupier crofters. As part of this, we would suggest consideration should be given to the possibility of limiting owner-occupier crofter status to natural persons (although not necessarily a single natural person)".

### **Statutory conditions of tenure**

The Law Society "welcome the introduction of statutory definitions of "misuse or neglect" in the Bill".

"We would highlight our previous suggestion for amendment to section 5C(2) of the 1993 Act to reflect that family members or hired labour can assist with working the croft – either by altering the wording to reflect that the "crofter must ensure that the croft is cultivated or put to another purposeful use..." or by inserting the previous wording of paragraph 3 of schedule 2 that the crofter must "by himself or his family, with or without hired labour...". We would suggest that consideration should be given to amending this legislation through amendment to this Bill". "In line with our previous recommendation, we would suggest that the wording of the condition in paragraph 4 of schedule 2 of the Crofters (Scotland) Act 1993 should be amended to refer to cultivation of the croft or another purposeful use, to ensure the conditions are in line with section 5C of the Crofters (Scotland) Act 1993, which would provide clarity".

"In relation to bankruptcy, as detailed by paragraph 10 of schedule 2 of the Crofters (Scotland) Act 1993, we previously suggested it would be appropriate to review the existence of the condition. We would welcome clarity from the Scottish Government regarding the continuation of this condition. If the condition is to remain, we consider it appropriate that the wording in paragraph 10 of schedule 2 should be amended to reflect that a crofter may become apparently insolvent by the actions of another, for example, by way of an application by a creditor for sequestration - the wording should be amended to read: "the crofter shall not become apparently insolvent...". They "previously noted the importance of sufficient resources for the Commission to enable enforcement of the conditions and requested the Scottish Government consider whether powers should be given to the Commission to recover costs for enforcement of crofting duties. We would welcome clarity from the Scottish Government's on its position on this and any discussion. If the Scottish Government and Commission are supportive of such measures, we suggest that consideration should be given to including such powers within this Bill."

### **Other matters**

The Law Society said the Bill "does not propose amendment to sections 5(3)-(6) of the

Crofters (Scotland) Act 1993. We would welcome information from the Scottish Government clarifying if it considered how these provisions are being used, both by the Land Court and by crofters and landlords, and if this informed its decision not to seek to modify these sections of the Crofters (Scotland) Act 1993. We would also welcome similar information from the Scottish Government regarding section 10(1)(b) of the Crofters (Scotland) Act 1993 and whether any changes to the law would be merited". The Law Society "would welcome clarity from the Scottish Government regarding its position on whether joint tenancies could be created in respect of crofts, including any discussions with the Commission".

## **Part 2**

### **Succession to certain leases (paragraph 25)**

The Law Society highlighted "a potential discrepancy" in this paragraph that "relates to 'certain' leases, but the text itself appears to cover all leases". It stated it would "welcome clarity on this point from the Scottish Government".

### **Finality of decisions and special cases (paragraph 30)**

Inksters Solicitor said "I came across a possible typographical error in Schedule 1, Part 3, paragraph 30(2) where '... proceedings before in under ...' should, I think, read: '... proceedings before it under ...'"

The Law Society welcomed clarity from the Scottish Government regarding:

- The purpose of paragraph 30(1), which it said was "unclear" and was unsure why the Scottish Government "felt necessary to include this point on the face of the Bill".
- paragraph 30 "can provide the impression that there is no right of appeal" and asked if this "is connected to the presence of an appeal route by virtue of section 88 of the 2003 Act".
- "the rationale for having different mechanisms of getting a case from the Land Court to the Inner House of the Court of Session depending on what type of case is being considered".

## Annexe C: glossary of terms

**Aarhus** - relates to the [Aarhus Convention](#), an international convention on access to environmental information, public participation in environmental decision-making and access to justice in environmental matters.

**Absenteeism** – when a crofter does not reside on, or within, 32 kilometres of a croft without the prior agreement of the Crofting Commission.

**Assignment** – the term used to describe the transfer, with Crofting Commission consent, of a croft tenancy from the crofter to a person of their choice.

**Common grazings** – areas of grazing land used by a number of crofters and others who hold a right to graze on that land.

**Crofting census** – a form issued annually by the Crofting Commission to a tenant or owner-occupier crofter to ascertain if they are complying with their duties. (Also known as an ‘annual notice’).

**Crofting Commission** – the statutory body responsible for regulating crofting in Scotland, including oversight of crofters’ duties and applications.

**Crofting community** – the people connected with a particular crofting township or area, including tenant crofters, owner-occupier crofters and those holding shares in common grazings.

**Crofters’ duties** – both tenant and owner-occupier crofters have a duty to be resident on, or within, 32 kilometres of their croft; not to misuse or neglect the croft; and to cultivate and maintain the croft or put the croft to another purposeful use.

**Crofting register** – the public, map-based register maintained by Registers of Scotland which records crofts, common grazings and associated rights and boundaries.

**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.

**Decrofting** – the term used when land is removed from crofting tenure by a direction of the Crofting Commission.

**Deemed croft** – when a crofter purchases their croft land and the grazings shares pertaining to that croft remain held in tenancy, the grazing shares are ‘deemed’ to be a separate and distinct croft in their own right. As such, these deemed crofts are given an individual entry in the Commission’s register of crofts.

**Grazing committee** – a committee set up to manage a common grazing. They are elected by the crofters who use the land and, in order for the common grazing to be regulated (protected by law), the committee must be recorded with the Crofting Commission.

**Grazing Constable** – a person appointed by the Crofting Commission in the absence of a grazings committee, who has similar powers and duties as a grazing committee.

**Grazing share** – a right to access to a specific common grazing.

**Inbye croft land (inbye land)** – the enclosed, improved and more managed part of a croft, often located near the croft house. Inbye land is distinct from common grazings or unimproved hill land.

**Maintain** – 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 state.

**Misuse** – when a croft is being used for something which is not considered as cultivation. Tenants 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).

**Owner-occupier crofter** – a crofter who owns their croft rather than holding it as a tenant, but who remains subject to crofting duties and regulation.

**Purposeful use** – any planned and managed use which does not adversely affect the croft, the public interest, the interests of the landlord, or the use of adjacent land.

**Register of crofts** – register managed by the Crofting Commission which contains information about each croft and the people linked to it. The register of crofts is updated via the annual notice, more commonly known as the crofting census.

**Resumption** – removal of land from crofting tenure; in this case it is carried out by the landlord, following permission from the Scottish Land Court.

**Sublet** – Subletting is the term used to describe the arrangement where a croft tenant allows another person (known as the subtenant) to work all, or any part, of their croft and/or the shares in a common grazing for a fixed period of time.



