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# Crofting and Scottish Land Court Bill

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The Crofting and Scottish Land Court Bill was introduced on 2 June 2025. Part 1 of the Bill aims to modernise and strengthen crofting by amending crofting law. Part 2 of the Bill seeks to merge the Scottish Land Court and the Lands Tribunal for Scotland.



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# Key Bill documents

The Crofting and Scottish Land Court Bill was introduced on 2 June 2025. The Bill as introduced can be found on the [Scottish Parliament website](#) alongside its supporting documents which include:

- A [Policy Memorandum](#)
- A [Financial Memorandum](#)
- A [Delegated Powers Memorandum](#)
- [Explanatory Notes](#)

# Parts of the Bill

The Bill consists of three parts:

Part 1 – Crofting Reform

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

Part 3 – General and supplementary provisions (not covered in this briefing)

# Context and policy aim of the Bill

The Bill aims to modernise and strengthen crofting, a traditional system of small-scale farming, which remains central to many rural communities across the crofting counties. Crofters are the individuals who work the crofts.

## Part 1 - amendments to main crofting laws

Part 1 of the Bill updates the main crofting laws from 1993 and 2010, focusing on seven key areas:

1. **Crofting Communities:** The Bill clarifies who counts as part of a crofting community and strengthens the role of communities in reporting problems like neglect of duties. It allows more people (e.g. landlords and subtenants) to report suspected breaches of duty to the Crofting Commission.
2. **Enforcing Crofters' Duties:** Crofters must live near their crofts and actively use the land. The Bill streamlines the administration of these duties and gives the Crofting Commission more power to enforce these rules and prevent crofts being transferred to companies or charities, so responsibilities stay with real people.
3. **Crofting Commission Powers:** The Commission, which regulates crofting, will have greater independence and new powers to resolve issues, such as approve changes to croft boundaries, and confirm crofter status where appropriate.
4. **Common Grazings:** Many crofters share access to upland grazing land. The Bill boosts the role of Grazings Committees and allows better options for proposing environmental projects like peatland restoration and renewables. It also prevents important grazing rights being unintentionally lost when land is sold.
5. **Crofting Register:** Improvements are being made to the crofting registration system to refine the process and make it easier to fix errors. Changes are also made to the respective roles of the Registers of Scotland and the Crofting Commission in handling applications for registration.
6. **Electronic Communications:** The Bill modernises how crofters and the Commission communicate—such as serving notices and holding meetings—by enabling more use of digital methods.
7. **Simplifications and Clarifications:** It also tidies up the law to make it clearer and easier to work with, including how Commissioners are appointed and fixing known legal inconsistencies.

## Part 2 - Land Court and Lands Tribunal Merger

The Bill will merge the **Scottish Land Court** and the **Lands Tribunal for Scotland** into a single, more efficient body, keeping the name **Scottish Land Court**.

- This new court will be more flexible, efficient, and better able to match cases with members who have the right expertise.
- It will still travel across Scotland to hear cases locally, including in crofting areas.

- Members of this new court may also help out in the **Upper Tribunal** (which hears appeals), bringing in extra knowledge and capacity when needed.
- This change ensures better service without losing the local and historical value of the courts for rural communities.

# Key consultations and reports

In 2024, the Scottish Government consulted widely with crofters and the public about proposed changes to crofting law. The consultation included public events and received many responses, showing broad support for most ideas.

The Bill aims to update and improve crofting law based on this feedback. Key goals include:

- Simplifying legislation to make crofting regulation less onerous for active crofters and the Commission.
- Strengthening the role of grazings committees in managing common land and give crofters, and their communities, a greater say in how land is used.
- Strengthening rules around residency and land use to reduce problems like absenteeism.
- Giving more powers to the Commission to manage crofting effectively and support active crofting.

Some new ideas, like allowing two people to share a croft tenancy or to borrow money secured on a croft, got mixed opinions. Because of concerns about complexity and fairness, these ideas will require further consideration and debate.

Overall, the Bill seeks to modernise crofting law to support sustainable crofting communities and land use, while reflecting the views of those involved in crofting.

# Part 1 - Crofting reform

## Chapter 1 - Crofts and crofters

### Section 1 - enabling environmental uses of crofts

Under the Crofters (Scotland) Act 1993, crofters, whether tenants or owner-occupiers, must meet certain legal duties, including:

1. Living within 32km of their croft.
2. Avoiding misuse or neglect of the croft.
3. Cultivating and maintaining the croft or using it for another "purposeful use".

In the Crofting Act cultivation is described as including the use of a croft for horticulture or for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, the growing of fruit, vegetables and the like and the planting of trees and use of the land as woodlands. Purposeful use is any planned or managed use of croft land, which does not adversely affect the croft, the public interest, the interests of the landlord or owner, or the use of adjacent land. For tenants, purposeful use requires the consent of the landlord or the Commission.

#### What the Bill does

Section 1 revises the duty on crofters to allow a third, distinct option for croft land: environmental use.

Key features include:

- Tenant crofters will no longer need landlord or Commission consent to put their land to environmental use.
- Environmental use is clearly defined in the legislation, including activities such as:
  - Peatland restoration.
  - Habitat creation or restoration.
  - Water management.
  - Enhancing or protecting the natural heritage.
- The definition is non-exhaustive, allowing the Scottish Ministers to update it through regulations as environmental practices evolve.
- Environmental use must still be planned and managed, and must not harm neighbouring land, a safeguard to prevent passive neglect.

The Bill also updates the statutory definition of "good agricultural and environmental condition" to align with current regulations, ensuring consistency with wider land use policy.

## Section 2 – Removal of Timescales for Deciding Applications

As outlined, crofters are required to use their land and live within a specified distance of the croft. In certain cases, crofters must apply to the Crofting Commission for consent:

- To use their croft for a different "purposeful use" (if not already approved by the landlord); or
- To be absent from the croft for a temporary period.

Currently, the law sets a 28-day deadline for the Commission to decide on these applications.

### What the Bill does

Section 2 removes the 28-day time limits from two specific parts of the 1993 Act:

- Section 5C(7) – where a crofter applies for consent to use their croft for another purposeful use;
- Section 21B(5) – where a crofter applies for permission to be temporarily absent from their croft.

Following the change, there will no longer be a fixed timeframe within which the Commission must make a decision on these types of applications. The removal of these statutory deadlines is intended to provide the Commission with greater flexibility in prioritising and handling applications, particularly in cases that may require more time to assess.

## Section 3 – Reporting on Breaches of Duties

Relevant to the duties of living within 32km of their croft, not misusing or neglecting the croft and cultivating or otherwise making purposeful use of the croft, is how breaches of those duties are reported.

Reports of possible breaches can currently come from various sources, such as grazings committees (which manage shared land), grazings constable, appointed assessors and members of the local crofting community.

### What the Bill does

Section 3 makes changes to who can report suspected breaches of crofting duties and reduces the reporting burden for Grazings Committees. Key changes include:

#### 1. Widening who can report a breach

Two new groups are added to the list of people who may report a suspected breach to the Crofting Commission:

- Subtenants or short leaseholders of a croft in the same township;
- Landlords or owners of the croft.

## 2. Reducing the reporting burden on grazings committees

Grazings committees are currently required to report on:

- The condition of the common grazings;
- The condition of every croft held by a crofter sharing in the grazing;
- The condition of every owner-occupied croft with a share in the grazing.

The Bill removes the latter two requirements, meaning committees will no longer need to report on the condition of individual crofts belonging to shareholders. They will still report on the common grazings and any other matters requested by the Commission. Other sections of the Act already allow a grazings committee to report individual suspected breaches of duty.

## Section 4 – Enforcement of Duties

If the Commission believes a crofter is not meeting their duties, it may begin an enforcement process which could ultimately lead to termination of the tenancy or re-letting of the croft.

At present, this process involves several steps, including two separate written notices: one informing the crofter of the issue and another asking for an undertaking to fix the problem.

### What the Bill does

Section 4 replaces sections 26C and 26D of the 1993 Act with four new sections (26C, 26D, 26DA and 26DB) which aim to streamline the process and give the Commission clearer powers to manage how breaches are handled.

#### 1. Revised notice and response process

- The Commission will still issue a written notice when it believes a duty is not being met.
- The person receiving the notice will now have 28 days to either:
  - Make representations (i.e. explain why they do not believe they are in breach), or
  - Offer an undertaking to fix the issue.

This combines two steps into one, simplifying the process. The Commission can also pause consideration of any other application either made by, or involving, the crofter until the issue is resolved. Crofters will be able to appeal, to the Scottish Land Court, a decision to pause consideration of any other application.

#### 2. Procedure where representations are made

- If the person responds within the 28-day period, the Commission must consider their representations.
- If the Commission decides the duty still hasn't been met, it must issue another notice

giving a final opportunity to provide an undertaking within 28 days.

### 3. How undertakings are handled

- If an undertaking is given (i.e. a promise to comply), the Commission may:
  - Accept it as-is;
  - Accept it with conditions; or
  - Reject it.
- If circumstances change, the Commission may also accept a revised undertaking.

### 4. If there is no response or undertaking

- If the person does not respond or fails to offer an undertaking, the Commission may treat this as acceptance that the duty is not being met.
- However, the Commission still has the option to consider late representations before deciding on next steps.

## **Section 5 – Enforcement Action Against Subtenants and Tenants of Short Leases**

Under the Crofters (Scotland) Act 1993, crofters (both tenant and owner-occupier crofters) are allowed to let their croft to another person under certain conditions:

- Tenant crofters may grant a sublease under section 27(2);
- Owner-occupier crofters may lease their croft under section 29A(4).

In both cases, the lease or sublease must be approved by the Crofting Commission, which may attach conditions to its consent (e.g. relating to how the croft is used).

### **What the Bill does**

Section 5 introduces a new provision, section 29BA, to the 1993 Act, which gives the Crofting Commission clearer powers to take enforcement action in relation to subtenants and tenants under short leases.

Under the new section, if the Commission is satisfied that any of the following have occurred:

- A condition imposed by the Commission has been breached;
- A condition of the lease (other than one about rent) has been breached;
- The subtenant or tenant has acted in a way inconsistent with crofters' statutory duties (such as residency, use, or cultivation duties).

Then the Commission may take action by making an order. The order can:

- Change or remove an existing condition.
- Impose a new condition.
- Withdraw consent for the sublease or lease, resulting in its termination.

This provision is intended to ensure that those occupying a croft under a sublease or short lease can be held accountable in the same way as crofters, particularly where they are not meeting expected standards or conditions of use.

## **Section 6 – Power to Decline to Act Until Information Provided**

The Crofting Commission relies on information from crofters and owners of croft land to carry out its responsibilities. This includes:

- Information needed for maintaining the Register of Crofts.
- Information collected through the Crofting Census.

Under section 40(1) of the Crofters (Scotland) Act 1993, the Commission can require a crofter or owner of croft land to provide specific details, including the extent, rent, and tenure of a croft, along with other relevant information.

### **What the Bill does**

Section 6 of the Bill makes changes to strengthen the Commission's ability to respond when this required information is not provided.

Specifically, it:

- Replaces section 40(3) of the 1993 Act to give the Commission the power to decline to take action on an application, or on a matter in which the person has an interest, until it is satisfied that:
  - The requirement has been complied with; or
  - It is not practicable for the person to comply with the requirement.
- Inserts a new subsection 40(4A) which clarifies that where the Commission does decline to do anything in relation to an application, this is treated in law as if it were a formal decision on an application. As such, it may trigger the usual rights of appeal or review, under section 52A.

## **Section 7 – Statutory Conditions: Entitlement to Fixed Equipment**

The statutory conditions governing crofting tenancies are set out in Schedule 2 of the Crofters (Scotland) Act 1993. These conditions set out the tenant crofter's specific obligations to the landlord.

One area of this is the provision of fixed equipment, such as buildings, fencing, or other

structures, needed for working the croft.

### **What the Bill does**

Section 7 introduces two main changes to the statutory conditions:

- It clarifies that landlords are not under any obligation to provide fixed equipment for the croft.
- It generalises the condition by removing the reference to cultivation, confirming that the provision applies to fixed equipment of any type required by the tenant, including environmental use or other productive activity.

In addition, Section 7 repeals paragraph 7 of the statutory conditions, as its content is already addressed elsewhere in the 1993 Act, making it redundant.

## **Section 8 – Assignations to Family Members**

Under the Crofters (Scotland) Act 1993, a crofter must obtain the consent of the Crofting Commission to assign their croft tenancy to another person. This process typically involves a public notification period and consideration of any objections and may result in consent being granted with conditions.

Section 8 of the Bill introduces a streamlined process for assignations to family members, in certain circumstances.

### **What the Bill does**

- A simplified consent process is introduced where a crofter seeks to assign their tenancy to a qualifying family member and certain eligibility conditions are met.
- If those conditions are satisfied, the Commission is required to grant consent and must notify the applicant and relevant others of the decision within 21 days (new subsection 8(2A) of the 1993 Act).

The simplified process removes the need for public notice of the application, consideration of objections and the possibility of granting consent subject to conditions.

However, the crofter must still apply for consent. The content requirements for the application under section 8(1A) and the registration obligations remain in force.

For the simplified process to apply:

- The assignee must be a member of the crofter's family, as defined in section 61(2) of the 1993 Act.
- The assignee must be ordinarily resident on, or within 32km of, the croft, or will be at the time of assignation.
- The assignee must not already be the tenant or owner-occupier of three or more crofts.
- The crofter must have given their landlord at least 28 days' notice of the proposed

assignment. A lack of response from the landlord is treated as no objection.

The applicant (the crofter) is responsible for providing sufficient information for the Commission to determine whether these conditions are met. The Commission may request additional information if needed.

### **Unchanged Provisions**

Section 8(5) of the 1993 Act is not changed by the Bill. An assignment made without Commission consent remains null and void, even if the transfer is to a family member, and could result in the croft being declared vacant.

## **Section 9 – Meaning of “Owner-Occupier Crofter”**

Under the Crofters (Scotland) Act 1993, a person may be recognised as an owner-occupier crofter if they meet certain conditions. This status confers rights and duties similar to those of tenant crofters and is central to how the crofting system regulates land use and occupancy.

Section 9 of the Bill makes several changes aimed at clarifying and expanding the routes by which a person may be recognised as an owner-occupier crofter.

### **What the Bill does**

New Route to Becoming an Owner-Occupier Crofter:

- Section 9(3) introduces new section 19BA into the 1993 Act. This provides a new process by which a person who owns a vacant, registered croft may apply to the Crofting Commission to be recognised, where it is merited, as an owner-occupier crofter.
- The process broadly follows the general application procedures under section 58A, but is exempt from public notification and consultation requirements.

Clarification of Ownership for Inheritance Cases:

- Section 9(2)(d) amends section 19B by inserting a new subsection (5A). This makes clear that a person may still be regarded as an owner of a croft even if they have not formally registered their ownership in the Land Register.
- This clarification is particularly relevant in cases of inheritance, where heirs may not have completed the legal process to register title.

Regulation-Making Power:

- Section 9(2)(e) introduces a new regulation-making power allowing Scottish Ministers to specify, through regulations, circumstances in which the first condition for becoming an owner-occupier crofter under section 19B(2) is considered to be met.

## Section 10 – Ownership of owner-occupied crofts

In crofting law, there is no explicit restriction on who may own an owner-occupied croft. This includes both *natural persons* (individuals) and *non-natural persons* (such as companies, trusts, or partnerships). Section 10 introduces a new legal restriction aimed at limiting ownership of owner-occupied crofts to individuals only.

### What the Bill does

- This section inserts a new section 19BB into the Crofters (Scotland) Act 1993, which prohibits the transfer of ownership of an owner-occupied croft to any persons who are not individuals.
- The restriction applies from the date the provision comes into force. From that point onward, any attempt to transfer title of an owner-occupied croft to an entity that is not an individual will be legally ineffective.
- The policy intention behind this change is to ensure that owner-occupied crofts continue to be held by individuals who can fulfil the personal occupancy and cultivation duties set out in crofting legislation.

## Section 11 – Ten-Year Restriction on Assignment and Purchase Following Commission Let

‘Assignment’ is the term used to describe the permanent transfer, with Crofting Commission consent, of a croft tenancy from the crofter, referred to as the ‘assignor’ or ‘current tenant’, to another person of their choice referred to as the ‘assignee’ or ‘proposed new crofter’. The Crofters (Scotland) Act 1993 gives the Crofting Commission powers to enforce crofting duties under sections 26A to 26K. In some cases, this can result in the termination of a tenancy or the letting of a formerly owner-occupied croft to a new tenant by the Commission. The Commission may also let a croft where there has been, for example, a failed succession, using its powers under section 23(5C).

Where the Commission selects a new crofter in this way, the policy is to identify the applicant who is likely to make the greatest contribution to the crofting community. No payment is typically required for the tenancy.

### What the Bill does

Section 11 introduces a restriction on the ability of a new tenant, selected by the Commission in these circumstances, to assign the tenancy for a period of 10 years from the date of the let. During the same period, the Land Court is also prohibited from authorising the acquisition of the croft land by the tenant under the purchase provisions of the Act. An application for assignment or acquisition may still be submitted during this period, but cannot take effect until the 10-year period has expired. The aim of this restriction is to ensure that crofts allocated through the Commission's enforcement or re-letting powers, normally at no cost to the new tenant, are not quickly profited from through transfer or purchase.

## Section 12 – Decrofting Direction: Rationalisation of Routes and Requirements

A "Decrofting Direction" in crofting law refers to a formal decision by the [Crofting Commission](#) to remove land from crofting tenure, effectively removing the land from the restrictions of the Crofting Acts. This direction can be issued for various reasons, such as when a crofter wants to purchase their croft land or use loan finance to develop on the land. Current case law interprets subsections 25(1)(a) and 25(2) of the Crofters (Scotland) Act 1993 as offering two distinct routes for obtaining a decrofting direction:

- **Section 25(1)(a):** Applications made for a reasonable purpose.
- **Section 25(2):** Applications where no purpose is stated.

Additionally, judicial observations have noted a potential ambiguity regarding the interaction between section 24(3) (which empowers the Crofting Commission to issue decrofting directions) and section 25, particularly whether section 24(3) provides a separate discretionary power independent of section 25(1).

### What the Bill does

- The Bill repeals section 25(2) and removes its reference from section 25(1)(a), thereby eliminating the route for decrofting applications without a stated purpose.
- It amends sections 24(3) and 25(1) to clarify that decrofting directions can only be issued under section 24(3) when the conditions in section 25(1) are met. This removes any doubt about the Commission having an independent general discretion to grant decrofting outside the circumstances set out in section 25(1).
- The Bill also addresses the special case of crofts that were feued under the 1955 Act (sections 17 or 18), often involving house sites formerly associated with crofts but now separated. The Bill removes the requirement for these crofts to be registered in the Crofting Register before they can be decrofted, as decrofting rights for these feued sites are automatic and registration is unnecessary.

"Feued crofts" are areas of land held under crofting tenure but are also owned by the crofter in perpetual tenure, rather than as a tenancy subject to a landlord. This ownership is granted in exchange for a regular, annual fee called a feu duty, and the land remains within the crofting system, under the regulation of the Crofting Commission

## Section 13 – Commission Decision-Making on Decrofting Applications

Sections 24A to 25 of the Crofters (Scotland) Act 1993 set out the process for crofters and owner-occupier crofters to apply to the Crofting Commission for decrofting directions. The law distinguishes between:

- **Crofters** applying under section 25(4), and
- **Owner-occupier crofters** applying under section 24A(1).

Section 24C modifies how section 25 applies to owner-occupier crofters, particularly in relation to decrofting of house sites.

### **What the Bill does**

Clarification of House Site Applications:

The Bill amends section 24C(2) to limit the automatic right to decroft house sites for owner-occupier crofters to a single occasion per crofter, even if one of the house sites was obtained by them while they were still a tenant crofter. If a decrofting direction has already been given for a house site on a croft, any subsequent application must proceed under section 25(1)(a), requiring the applicant to show a reasonable purpose.

Wider Decision-Making Criteria:

The Bill expands the matters the Commission can consider when deciding applications:

- Adds the Commission's own approved and published Policy Plan (under section 2C of the 1993 Act) to the list of issues they may consider.
- Introduces a new section 25(1D) allowing the Commission to take into account whether land has previously been decrofted from the same croft when assessing current applications under section 25(1)(a) or (b).

Right to Object Introduced:

New subsections 25(6A)–(6C) introduce a statutory right to object to decrofting applications, confirming the objections which the Commission already allows on a non-statutory basis:

- Applies to those who already have the right to appeal decisions (e.g. crofting community members for section 24(3) applications, and landowners for section 25(4) applications).
- Objections must be made within 28 days and follow the same standards as objections under the approval and consent procedures in section 58A of the 1993 Act.
- The Commission must take account of any valid objections in making its decision.

## **Section 14 – Commission's Powers to Adjust Boundaries**

The Bill introduces new provisions to allow for boundaries of registered crofts to be adjusted or remapped. Two new sections are added to the Crofters (Scotland) Act 1993:

- **Section 39A – Commission's Power to Adjust Boundaries** applies when two or more crofters agree to adjust the boundaries of their respective crofts, without altering the overall boundary of land in crofting tenure.
- **Section 39B – Commission's Power to Bring Land Into or Remove Land From Crofting Tenure** applies when there is a need to change the description of a croft because the registered boundary does not match the land actually occupied, or when the boundary is otherwise inaccurate or undesirable.

## **What the Bill does to Boundary Adjustments (Section 39A)**

### Joint Application:

Crofters wishing to adjust boundaries must apply jointly to the Commission. The application must include a detailed plan based on an ordnance map or another approved map, along with a description of both the existing boundaries (as recorded in the Crofting Register) and the proposed changes.

### Consent Requirements:

For cases involving tenant crofters, each must have obtained consent from their landlord. The Commission will also consider whether the period for challenging a first registration (as set in the 2010 Act) has expired and ensure that the boundary adjustment does not affect any grazings right or apportioned land.

### Area Consistency:

Any boundary adjustment must leave the total area of the combined crofts unchanged. This means that if one croft becomes smaller, another must grow correspondingly.

### Process and Expiry:

The application follows a process similar to other Commission applications under section 58A of the 1993 Act, although it does not require public notification or consultation. Once the Commission issues a direction for adjustment, that direction will expire in three months unless the parties apply for registration under the 2010 Act, thereby making the changes effective on the registration date.

## **What the Bill does to Boundary Remapping (Section 39B)**

### Application for Remapping:

If a crofter or owner-occupier crofter finds that the description of the croft in the registration does not match the actual land occupied, or if the boundary is inaccurate or otherwise unsatisfactory, they may apply (individually or jointly) for a boundary remapping.

### Required Information:

The application must include a plan based on an ordnance map (or another map approved by the Commission) showing both the current boundary (as per the Crofting Register) and the proposed new boundary.

### Consent and Considerations:

The Commission will grant a remapping direction if it is satisfied that the current description does not reflect the occupied croft or that the boundary is otherwise in need of change. Consent from relevant parties (as specified in the Act) must be obtained, and it must be shown that the remapping does not affect any grazings right or apportioned land.

### Public Notification:

Unlike the boundaries adjustment under Section 39A, the remapping application process does include public notification and consultation requirements, because this may involve changes to the extent of crofting tenure.

### Direction Expiry:

Similarly, once a remapping direction is issued, it expires after three months unless the necessary registration application is submitted under the 2010 Act, making the new boundary effective on registration.

## Section 15 – Common Grazings' Unattached Shares

Common grazings are areas of land used by a number of crofters and others who hold a right to graze stock on that land. There are about 1000 common grazings covering over 500,000 ha across Scotland. This section of the Bill introduces a number of changes to how unattached or severed shares in common grazings are treated under crofting law. Grazings committees are set up with certain management responsibilities regarding the common grazings. They are appointed into office by the crofters who share in the common grazings and have responsibility to make and submit grazings regulations to the Commission for approval. Each common grazing has its own grazings regulations which are administered by the grazings committee.

In crofting, a share in common grazings is usually tied to the inbye croft. However, in some situations, that share becomes separated, or "unattached", from the croft. This often happens when a crofter purchases the croft but not the associated grazing share. The share is then treated as a croft in its own right, under section 5(3) of the Crofters (Scotland) Act 1993, and if it is sold on, the person holding it may no longer have an inbye croft. These stand-alone shares are sometime referred to as "deemed crofts".

### What the Bill does

#### Making Severance Less Common:

- An amendment to section 12 of the 1993 Act aims to reduce how often grazing shares become unattached unintentionally.
- It provides that, when a croft is purchased, the associated share in the common grazings will automatically be included in the transfer (as a pertinent of the croft) unless both the landlord and crofter agree otherwise.

#### New Reletting Procedure:

- The Bill amends section 52 of the 1993 Act to give the Crofting Commission a new option when a grazing share has been terminated by the Commission under section 52(1E)(b)(i).
- In such cases, the Commission can now treat the share as vacant and apply a new procedure under section 52ZA for its reallocation and reletting.

#### Section 52ZA – Unattached Grazing Shares:

- This new section outlines a specific process for dealing with grazing shares that are vacant, and not currently part of any croft.

#### Reallocation and Reletting Process:

- The Commission must first invite the landlord to propose up to three candidates for

reletting the share, giving them two months to respond.

- The Commission can accept or reject any or all of the landlord's proposals.
- If none are accepted, or if the landlord does not respond, the Commission must publicly invite applications and decide who should receive the share.
- Before approving a proposal or deciding on the allocation, the Commission must consult the relevant grazings committee, where one exists.
- Once the grazing share is relet, the Commission must ensure that both the Register of Crofts and the Crofting Register are updated with the relevant details of the new arrangement.

Flexibility in Reletting:

- The Bill allows the Commission to reallocate a grazing share to:
  - One person,
  - Multiple people,
  - Existing shareholders, or
  - New individuals entirely, or a combination of these.
- This gives the Commission flexibility to determine what is most appropriate in the circumstances, taking into account advice from the grazings committee.

## **Section 16 – Grazings Committees Meetings**

Under section 47 of the Crofters (Scotland) Act 1993, crofters who share in a common grazings may appoint a grazings committee by holding a public meeting. The term of office for members of such committees is three years, after which a new committee must be appointed.

### **What the Bill does**

Notification to the Commission:

- The Bill updates section 47(1) to require that any public meeting to appoint a grazings committee must also be notified to the Crofting Commission, not just publicised more generally.

Timing of Committee Appointments:

- The Bill specifies that the public meeting to appoint a new grazings committee can take place up to three months before the current committee's term of office expires. This ensures a clearer process for committee succession and reduces the risk of a gap between the expiry of one committee's term, and the election of its successor.

Meetings by Electronic Means:

- A new section 50C is added to the 1993 Act to clarify that meetings related to common grazings can be held by electronic means (e.g online video calls).

## **Section 17 – Appointment of Grazings Committee or Grazings Constable: Appeal to Land Court**

Under section 47(8) of the Crofters (Scotland) Act 1993, the Crofting Commission may remove one or more members of a grazings committee or the committee's clerk. This is provided, after an inquiry it concludes that they are not properly performing their duties.

At present, anyone affected by such a decision can only challenge it by appealing to the Court of Session, Scotland's highest civil court.

### **What the Bill does**

This section introduces a more accessible route of appeal by allowing affected individuals to instead appeal to the Scottish Land Court which deals specifically with crofting matters.

A new section 47A is inserted into the 1993 Act and includes the following provisions:

Who can appeal:

- A “relevant person” can make an appeal. This includes current or former members or the clerk of the grazings committee affected by the Commission's decision.

What decisions can be appealed:

- The decision to remove any or all committee members or the clerk.
- The decision to appoint another person in their place.

Time limit and grounds for appeal:

- The appeal must be lodged with the Land Court within 42 days of the commission's decision.
- The new section outlines the specific grounds on which an appeal can be brought (these are procedural or substantive but not detailed in this section summary).

The Land Court:

- The Land Court has powers to uphold the commission's decision, change it, set it aside or substitute its own decision.
- The Commission is legally required to act in accordance with the outcome of the appeal.

## **Section 18 – Use of Common Grazings for Forestry or Environmental Purposes**

### **What the Bill does**

This section updates the rules in the Crofters (Scotland) Act 1993 to allow common grazings to be used not only for forestry (as under the current law), but also for a broader range of environmental purposes (like peatland restoration or biodiversity projects). It replaces the old section 50 of the 1993 Act with new sections 50, 50ZA, and 50AA, creating a new two-step process for gaining approval.

### **New Process for Proposals (Sections 50 and 50ZA)**

New section 50 applies where a grazings committee or any crofter with grazing rights, proposes that the committee use part of the grazing for forestry or environmental purposes, such as peatland restoration, habitat creation or restoration, water management, enhancing biodiversity or the natural environment.

#### **Step 1: Get the owner's consent (new Section 50)**

- The grazings committee must apply to the landowner.
- The landowner may:
  - Grant consent (with or without conditions), or
  - Refuse consent, but only for certain allowed reasons and must explain why.
- If the landowner doesn't respond within 6 weeks, consent is automatically deemed to have been given.

#### **Step 2: Get the Crofting Commission's approval (new Section 50ZA)**

- Even if the landowner gives consent, the grazings committee must still apply to the Commission for determination that the decision is reasonable before the use can proceed.
- However, if the landowner gives full consent without conditions, the Commission must confirm it.
- In other cases (i.e. approval with conditions, refusal or no reply), the Commission will assess the proposal. Before making a decision, the Commission must consult with the grazings committee, the landowner, the crofters with rights in the grazings, others with an interest.
- If approved by the Commission, the Commission's approval over-rides any contrary position by the landowner, and the determination will be entered in the Register of Crofts, and will bind future owners of the land. However, it must be acted upon within seven years or it lapses.
- If the approval includes a condition like fencing, the decision will clarify who is responsible for the costs.

### **Agreements Between Owners and Crofters (New Section 50AA)**

This new section allows crofters and landowners to enter into joint agreements for environmental use of grazings land.

These agreements can be binding on future owners and crofters and must be registered with the Commission. They can only be changed by mutual agreement which must also be

registered.

## **Section 19 – Meaning of Crofting Community, Parish and Township**

### **What the Bill does**

This section updates and clarifies definitions in the Crofters (Scotland) Act 1993, particularly in relation to how the terms crofting community, parish, and township are understood in law.

The legislation introduces a more specific definition of a crofting community. It now refers to the group of people who:

- Are connected to a particular township, and
- Fall within certain categories listed in a new subsection (section 61(1A)) of the 1993 Act: crofters, owner-occupier crofters, and others who have a share in any common grazings associated with that township.

### **References to Parish and Township**

The section also confirms that when the Act refers to a parish or township (for example, in identifying where a croft is located), this refers to the information recorded in the Register of Crofts under section 41 of the 1993 Act.

### **Amendments**

To support these updated definitions, Part 1 of Schedule 2 makes related changes throughout the rest of the 1993 Act. These are mostly technical adjustments to ensure consistency in how the terms are used.

## **Section 20 – Crofts Not to Be Private Residential Tenancies**

Under the Private Housing (Tenancies) (Scotland) Act 2016, Schedule 1 lists types of tenancy arrangements that do not qualify as private residential tenancies (PRTs), such as tenancies for agricultural land.

### **What the Bill does**

- Section 20 of the Bill adds crofts to this list of exclusions.
- This means that if a property includes a croft, the tenancy cannot be treated as a private residential tenancy under the 2016 Act.

This change protects the distinct legal status of crofts, ensuring they continue to be regulated under crofting law rather than general private rental law. It prevents crofts from being managed through housing tenancy rules that were not designed for agricultural or crofting use.

## Chapter 2 - Registration

This chapter makes changes to the way that crofts are registered.

There are two crofting registers:

- The Crofting Register – maintained by the Keeper of the Registers of Scotland, created by the Crofting Reform (Scotland) Act 2010. This is the mapped, digital register.
- The Register of Crofts – maintained by the Crofting Commission under the 1993 Act. This is the more traditional register that contains key administrative details.

### Section 21 – Changes to the Register of Crofts

Some personal and locational information is required in the Register of Crofts.

#### What the Bill does

1. Simplifies personal information required:
  - Age no longer needs to be recorded, since date of birth is already included.
  - Landlords no longer need to provide their date of birth.
  - Owner-occupier crofters must provide the same personal details as tenant crofters.
2. Improves location details:
  - It is now a requirement that every croft in the register has both the township and parish noted.
  - This supports the updated definition of “crofting community” introduced in Section 19.

These changes reduce duplication (e.g age and date of birth) and ensure consistency across all types of crofters. Additionally, it confirms the usefulness of the Register for identifying crofting communities based on location (township/parish).

### Section 22 – First Registration of Crofts Purchased by Tenant Crofter

Under the Crofting Reform (Scotland) Act 2010, certain events require any as-yet-unregistered croft to be registered in the Crofting Register (the official map-based register maintained by the Keeper of the Registers of Scotland).

These events already include creating a new croft, assigning a croft tenancy, transferring ownership of an owner-occupied croft or other specific regulatory events, known as triggers.

#### What the Bill does

Section 22 of the Bill updates these rules to include one more trigger for first-time registration. If a tenant crofter buys their croft and becomes an owner-occupier crofter, the croft must now be registered in the Crofting Register.

This fills a previous gap where tenant crofters were purchasing their croft and not needing to record that change in the map-based system.

The new owner-occupier crofter (i.e. the former tenant) is responsible for submitting the application.

### **What if they don't register?**

The Bill introduces a new offence. If the owner-occupier crofter fails to register the croft within 1 year, they are committing an offence. If the failure continues, they may commit a further offence each year.

Offences are punishable by a fine (up to level 3 on the standard scale, which is currently up to £1,000).

## **Section 23 – Payment of Fees for Applications for Registration**

When someone applies to register a croft in the Crofting Register, they have to pay the application fee to the Crofting Commission, who then passed it on to the Keeper of the Registers of Scotland (who maintains the Crofting Register).

The Registers of Scotland is the non-ministerial department of the Scottish Government responsible for compiling and maintaining records relating to property and other legal documents. They currently maintain 21 public registers, including the Crofting Register. The official responsible for maintaining the Registers of Scotland is the Keeper of the Registers of Scotland (known simply as the Keeper).

### **What the Bill does**

- Instead of paying the fee to the Commission, applicants must now make arrangements that are satisfactory to the Keeper for paying the registration fee.
- These arrangements could include direct payment methods or other procedures set by the Keeper.

### **Who provides guidance?**

The **Keeper** and the **Crofting Commission** will inform applicants of what the acceptable payment arrangements are and how to comply with them. If appropriate payment arrangements are not made, the registration will not go ahead.

## **Section 24 – Requirement to Notify Landlord of First Registration Application**

Section 24 updates the Crofting Reform (Scotland) Act 2010 to introduce a new requirement for tenant crofters applying to register their croft for the first time.

## What the Bill does

If a tenant crofter is applying for first-time registration of a croft:

- They must send a copy of the draft application to the landlord of the croft at least 14 days before submitting it to the Crofting Commission.
- When submitting the application to the Commission, the tenant must confirm that this notification to the landlord has taken place.
- If the confirmation is not provided, the Commission may reject the registration application.

## What can the landlord do?

- The landlord does not have to respond to the draft application.
- However, they can take action by raising concerns with the tenant crofter if they believe there are inaccuracies in the information being submitted.
- It will be up to the landlord to decide whether to offer comment to the crofter and, if they do, it will be up to the crofter to decide whether to modify the application.

This change ensures landlords are aware of proposed registrations and gives them an early opportunity to identify any potential errors before registration is finalised.

## Section 25 – Notification of First Registration

Section 25 makes changes to the Crofting Reform (Scotland) Act 2010 to improve the notification process for first-time croft registrations. It transfers responsibility for notifying interested parties from the Crofting Commission to the Keeper of the Registers of Scotland.

### What the Bill does

#### 1. Who is responsible for notification?

- Currently, the Crofting Commission is responsible for notifying people who have an interest in the croft (e.g. neighbouring crofters, landlords and other landowners).
- Under the Bill's changes, The Keeper will handle this notification once the croft is first registered.

#### 2. What the applicant must do:

- When applying to register a croft for the first time, the applicant must provide the names and addresses of any people known to have an interest in the croft, or if they don't know this information, explain what steps were taken to try to find out.
- The Commission may ask the applicant for more information, or provide details from its own records, where available.

#### 3. Timing of notifications and challenges:

- Once the croft is registered, the Keeper must notify the interested parties as soon as reasonably practicable.
- The 9-month challenge period (where someone can dispute the details of the registration) only begins once the last interested person has been notified.

#### 4. Liability for errors in notifications:

- The Keeper is not responsible for any mistakes or missed notifications caused by inaccurate information provided by the Commission.
- However, if the Keeper has the correct information and still makes a mistake, they may be held liable.

This shifts responsibility to the Keeper, who is the body that actually maintains the Crofting Register.

## **Section 26 – Rectification of the Crofting Register**

This section amends Part 2 of the Crofting Reform (Scotland) Act 2010, focusing on how errors in the Crofting Register can be corrected.

### **What the Bill does**

New powers for the Keeper:

- The Keeper can now correct typographical, clerical, or other administrative errors at any time without an application or needing to prove the error was theirs.

New route via the Crofting Commission:

- If the Commission finds a material inaccuracy (a significant error related to key registration details), it can direct the Keeper to correct it.
- The Commission must give 28 days' notice to any person appearing to them to be affected before issuing such a direction, and must consider any responses received.

New route initiated by the Keeper:

- If the Keeper discovers a material inaccuracy (not caused by them and not already corrected by other means), they may rectify the register if the correction is clear.
- For all corrections except minor clerical fixes, the Keeper must notify affected persons and the Commission that the register has been rectified.

Other changes:

- Rectification of minor clerical errors will no longer restart the 9-month challenge period for first registrations.
- The Keeper can be liable for losses caused by mistakes made when rectifying the register on their own initiative.

- The Commission is liable for losses from errors made when directing the Keeper to rectify the register.

#### Appeals:

- Persons affected by a Commission direction to rectify can appeal to the Land Court within 42 days of notice.
- The Land Court may confirm, modify, or quash the Commission's decision, and the Commission must comply with the Court's ruling.
- Appeals to the Land Court against a rectification made by the Keeper are also possible by virtue of the existing section 20 of the 2010 Act.

## Section 27 – Form of applications for registration

This section inserts a new section 19A into the Crofting Reform (Scotland) Act 2010, giving the Keeper responsibility for specifying the form of applications for registration in the Crofting Register.

#### What the Bill does

- The Keeper will specify the forms and related requirements for croft registration.
- These forms must be made publicly available (e.g. on the Registers of Scotland website).
- Applicants are expected to use the specified forms for valid applications.
- Before introducing a new form, the Keeper must consult the Crofting Commission. Proposed forms must be publicised so applicants are aware of them.

## Chapter 3 - Miscellaneous

### Section 28 – Service of notices

This section replaces section 55 of the 1993 Act to modernise how notices and documents may be served.

#### What the Bill does

- Permitted methods of service to include personal delivery, registered or recorded post or electronic communication (e.g. email).
- Notice may be addressed to “The person with an interest in the land.”
- The “proper address” for postal service is defined.
- Documents sent by post are presumed delivered after 48 hours.
- Recipients must have indicated willingness to receive documents electronically to

receive them in such a way, this willingness can be given explicitly or inferred.

- Uploading a document to an electronic storage system for download can count as service. Documents served electronically are presumed received after 48 hours.

## **Section 29 – Public notification**

This section updates how public notification is carried out under the 1993 and 2010 Acts.

### **What the Bill does**

- Replaces existing section 55A of the 1993 Act with two new sections: 55A and 55B. Removes the requirement to publish notices in local newspapers.

New section 55A – Regulations by Scottish Ministers:

- Scottish Ministers may make regulations on the form, content, method, timing, and duration of public notification. They must consult the Crofting Commission before making regulations.

New section 55B – Role of the Crofting Commission:

- The Commission is responsible for specifying and publishing the form of notices for public notification (consistently with any Scottish Government regulations prescribing these matters). Where notice must also be given to individuals, it must be in the same form as the public notice.

## **Section 30 – Crofting census notices**

This section amends section 40A of the 1993 Act (crofting census).

### **What the Bill does**

- Currently, the Crofting Commission must issue notices every year. The Bill changes this so that notices are issued at least every three years. This is to reduce administrative burden both for the Commission and crofters but still ensure regular collection of crofting activity data.

## **Section 31 – Appointment of Chair**

This section amends paragraph 3 of Schedule 1 to the 1993 Act, which sets out the Crofting Commission's membership and chairing arrangements.

### **What the Bill does**

Scottish Ministers may appoint a chair who is either (as currently) an existing member, or someone external to the Commission. If Ministers delegate appointment to the Commission, only an existing member can be chosen.

Where an external chair is appointed, the Commission's membership may temporarily exceed the maximum of nine. The Bill removes the requirement that elected members must always form the majority when an external chair is appointed in these circumstances. If the chair was not previously a member, their membership ends when they cease to be chair.

## **Section 32 – Appointed members: special considerations**

This section amends paragraph 4 of Schedule 1 to the 1993 Act.

### **What the Bill does**

Currently, at least one appointed member must represent landlord interests if no elected member does. The Bill amends this so that Ministers must now only have regard to the desirability of appointing a landlord representative. Before making such an appointment, Ministers must consult the Commission.

## **Section 33 – Chairing of Commission meetings and committees**

This section amends paragraphs 12 and 13 of Schedule 1 to the 1993 Act.

### **What the Bill does**

The Commission must appoint a chair for every committee it establishes. The Commission chair may delegate chairing of all or part of a meeting to another member (e.g. during absence or technical issues). Committee chairs may also delegate in the same way. The original chair retains the casting vote even if chairing is delegated temporarily during a meeting.

It is no longer a requirement that the commission's Chair, if attending a committee meeting, has to take over the chair from the committee chair.

## **Part 2 - Merger of the Scottish Land Court and the Lands Tribunal for Scotland**

This Part merges the Scottish Land Court and the Lands Tribunal for Scotland. The Tribunal's functions and jurisdiction transfer to the Court. Schedule 1 to the Bill sets out the Court's constitution, jurisdiction, and powers after the merger.

### **The Scottish Land Court**

The Scottish Land Court was established under the Small Landholders (Scotland) Act 1911. It handles disputes between landlords and tenants in agriculture and crofting. It is chaired by a judge with Court of Session status, supported by legal and lay members. It has procedures for internal appeal and for appeal to the Court of Session.

### **The Lands Tribunal for Scotland**

The Lands Tribunal for Scotland was created under the Lands Tribunal Act 1949 (operational since 1971). It resolves a range of land and property disputes. Its decisions are appealable to the Court of Session on points of law only.

## **Section 35 – 39 - The Scottish Land Court**

These sections confirm continuation of the Court and implements Schedule 1. They transfer the Lands Tribunal for Scotland's functions, staff, property, and cases to the Court. Tribunal members are initially authorised to sit in the Court.

These sections ensure ongoing proceedings continue smoothly after transfer and allows ministers to regulate detailed matters during the merger, such as staff contracts.

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