



The Scottish Parliament
Pàrlamaid na h-Alba

SPICe

The Information Centre
An t-Ionad Fiosrachaidh

SPICe Briefing

Pàipear-ullachaidh SPICe

Crofting and Scottish Land Court Bill: consideration in advance of Stage 3

Euan Ross

This briefing summarises scrutiny of the Crofting and Scottish Land Court Bill to date in advance of the Parliament's consideration at Stage 3. It sets out details of how the Bill was amended at Stage 2 and other significant developments or areas of debate.



10 March 2026
SB 26-17

Contents

Summary and Background	3
Part 1 of the Bill: Crofting Reform	5
How Part 1 was amended at Stage 2	5
Areas of discussion ahead of Stage 3	12
Part 2 of the Bill: merger of the Scottish Land Court and the Lands Tribunal for Scotland	14
How Part 2 was amended at Stage 2	14
Areas of discussion ahead of Stage 3	15

Summary and Background

This briefing looks at the Crofting and Scottish Land Court Bill ahead of Stage 3 proceedings in the Scottish Parliament on 11th March 2026.

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](#)

The Bill as introduced

As introduced, the Crofting and Scottish Land Court 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

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 of the Bill updates the main crofting laws from 1993 and 2010, focusing on seven key areas: crofting communities, enforcing crofters' duties, crofting commission powers, common grazings, crofting register, electronic communications as well as simplifications and clarifications. Part 2 of the Bill merges the Scottish Land Court and the Lands Tribunal for Scotland into a single, more efficient body, keeping the name Scottish Land Court. More detailed information on the Bill as introduced and policy background can be found in the [SPICe Bill briefing](#).

Scottish Parliament consideration of the Bill at Stage 1

The lead committee on the Bill is the Rural Affairs and Islands (RAI) Committee, which considered the general principles of the Bill at Stage 1 across a number of meetings in 2025 and published its Stage 1 report on 19 December 2025. The report supported the general principles of the Bill but contained a number of recommendations across the Bill. The RAI Committee's scrutiny at Stage 1 included taking evidence from the Minister for Agriculture and Connectivity as well as stakeholders. The RAI Committee also issued an open call for views on the Bill between 13 June 2025 and 5 September 2025. Published responses [can be accessed online](#). The [Scottish Government responded](#) to the [RAI Committee's Stage 1 report](#) on 9 January 2026 setting out its response to the various conclusions and recommendations.

Scottish Parliament consideration of the Bill at Stage 2

Minutes of Stage 2 proceedings, which were held in the RAI committee over two meetings

in February 2026, set out which amendments were agreed to, amendments disagreed, amendments withdrawn, and provision of the Bill agreed without amendment:

[Minutes of proceedings on 4 February 2026 \(first meeting\)](#)

[Minutes of proceedings on 11 February 2026 \(second meeting\)](#)

The following sections describe how the Bill was amended during Stage 2 proceedings. It also summarises other key areas of the debate at Stage 2, for example where proposed amendments were withdrawn on the basis of the Scottish Government committing to give further consideration to a proposal or issue. The briefing does not detail all amendments that were put forward where these were not agreed. Amendments agreed 'without division' indicates where Members unanimously agreed an amendment. Amendments agreed 'by division' indicates where a majority, but not all Members supported an amendment.

Cover Image: "[Highland Cow](#)" by [Alexandre Dulaunoy](#) is licensed under [CC BY-SA 2.0](#).

Part 1 of the Bill: Crofting Reform

The Policy Memorandum to the Bill 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".

Part 1 of the Bill updates the main crofting laws from 1993 and 2010, focusing on seven key areas: crofting communities, enforcing crofters' duties, crofting commission powers, common grazings, crofting register, electronic communications as well as simplifications and clarifications.

How Part 1 was amended at Stage 2

Technical Amendments

Amendments 2, 9, 23, 74, 100, 101, 106, 110, 111, 115, 120, 121, 125, 128 and 130 were described as "minor amendments that correct technical issues in the bill, such as typographical or referencing errors." For example, amendments 100 and 101 clarify that public notice rules relating to the Crofting Reform (Scotland) Act 2010 apply only to section 12(8), as that is the only relevant notice requirement.

Before section 1 – General functions of the Commission

Alasdair Allan MSP proposed Amendment 1, which was agreed to unanimously by the committee. It adds the enforcement of statutory duties to the general functions of the Crofting Commission. This was proposed in conjunction with amendment 24, which comes after section 6 of the Bill and was also agreed unanimously. This gives ministers a regulation-making power to establish a civil monetary penalties regime for non-compliance with specific duties.

Alasdair Allan MSP suggested that the power would enable ministers to, by regulation, "confer upon the Commission the power to impose and collect monetary penalties" and to "repeal or adjust any existing criminal offence" that relates to those duties. The regulation-making power would be subject to a statutory consultation requirement. He argued that "applying criminal rather than civil sanctions for failing to comply with, say, the return of an annual notice seems to be heavy handed. It is vital that the Crofting Commission has the necessary enforcement powers to ensure that crofters meet certain requirements, but a more practical civil system of monetary penalties would enable the commission to respond proportionately and effectively to non-compliance."

Section 1 – enabling environmental use of crofts

Under the Crofters (Scotland) Act 1993, crofters, whether tenants or owner-occupiers, must meet certain legal duties, including cultivating and maintaining the croft or using it for "another purposeful use". Section 1 of the Bill revises the duty on crofters to allow a third, distinct option for croft land: environmental use.

Amendments 3 to 8, 10 and 197 were lodged by Rhoda Grant MSP, aiming to tighten and clarify what counts as "environmental use" of a croft so that it cannot be used as an easy route to abandonment. All of which were agreed to unanimously, apart from amendment 8

which was agreed to by division. These amendments seek to ensure that environmental use involves active, purposeful land management that benefits the environment and does not harm the croft. They also exclude energy generation, transmission and storage from being classed as environmental use. Rhoda Grant MSP specified “a crofter could not cover their croft with solar panels and say that it had been put to environmental use, but they could have solar panels on their croft as part of the normal working of their croft, to generate electricity, for example, for a barn.”

The amendments also ensure crofters are not penalised under existing rules when environmental use conflicts with other statutory requirements, allow ministers to remove items from the list of recognised environmental uses, and restores the Crofting Commission’s role so it can decide all applications for environmental use.

Beatrice Wishart MSP’s amendment 168 was agreed by division. It allows a crofter to meet their duties under section 5C(2) of the Crofters (Scotland) Act 1993, which sets out the core duties of a crofter, with help from family members or hired labour. She argued that “current law lacks certainty with regard to the involvement of other family members or hired labour, following the removal of the explicit wording in that regard from schedule 2 to the 1993 act, and the Law Society of Scotland has suggested that amendment 168 would provide certainty by inserting such language into the 1993 act.”

The Minister for Agriculture and Connectivity did not support the amendment stating “the matter was raised in our 2024 consultation and, although the majority supported it, others pointed out that it is already widely recognised that crofters can be supported by family members and hired labour in working the croft, so I do not think that it is a problem that needs to be fixed. The fear is that that well-meaning amendment could encourage more informal lending of crofts, which our crofting communities would see as a backward step.”

Section 2 – Removal of timescales for deciding applications

Section 2 of the bill removes the 28-day time limit that the Commission has to make a decision over two types of applications: when a crofter applies to use their croft for another purposeful use or when a crofter applies for permission to be temporarily absent from their croft.

Edward Mountain MSP’s amendments 171 and 172 were agreed unanimously. The former is a consequential of the latter. Amendment 172 requires the commission to publish “customer service standards” within a reasonable timeframe, ensuring clear expectations for how long processes and responses should take. The argument for this amendment was to provide greater certainty for crofters and landlords when dealing with the commission.

Edward Mountain MSP argued that “My amendments 171 and 172 came about because of the experiences that my constituents and I had with the Crofting Commission and the amount of time that it took to get a response. To put it on the record, the longest that I have waited for a response from the commission is 14 and a half months, which is unacceptable.” He also reflected that “quite tight timescales are place on crofters and landlords and there are serious consequences if they fail to meet them.”

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.

Rhoda Grant MSP's amendment 175 was agreed by division. It allows the crofting commission to consider a person's history of providing information before a complaint of a breach is investigated. She argued that this would limit the scope for people to make vexatious complaints. The Minister for Agriculture and Connectivity opposed it, arguing the commission already has the ability to treat frivolous or vexatious reports appropriately and should continue assessing each case on its merits.

Section 4 – Enforcement of Duties

The Minister for Agriculture and Connectivity's amendment 11 was agreed unanimously. It streamlines the bill by removing proposed section 26DB and consolidating procedures into section 26D. The effect of this is to give the Crofting Commission a single, clearer process for dealing with suspected breaches of crofting duties, allowing it to treat a lack of response as acceptance of non-compliance while still considering timely representations and potentially late ones if they wish.

The Minister for Agriculture and Connectivity's amendment 13 (agreed unanimously) requires the Commission to notify an applicant whenever it declines to act on a regulatory application because of a suspected breach. Amendment 21 (agreed unanimously) applies standard appeal timescales and grounds to appeal against such decisions.

The Minister for Agriculture and connectivity's amendments 14 to 20 (agreed unanimously) clarify that when the Commission decides a duty is not being complied with, it must offer a further opportunity to give an undertaking only to those who engaged properly with the process, while retaining discretion for all others, and they introduce new section 26DA to set out how undertakings are handled in all cases.

Alasdair Allan MSP's amendment 41 was agreed unanimously. It will allow the Land Court to pause ("sist") a crofter's right-to-buy application when the Crofting Commission has issued a notice of suspected breach of duty, preventing the court from authorising a purchase if the crofter is found not to be complying with their duties, and amendment 12 complements this by requiring the Commission to send the Land Court a copy of any such notice; together, the amendments are intended to stop crofters in breach of their obligations from profiting through a right-to-buy application and ensure that duties cannot be avoided by initiating the purchase process.

Ariane Burgess MSP's amendment 137 was agreed to by division. It seeks to ensure that breaches of common grazings regulations, covering more than 550,000 hectares of crofting land, are treated in the same way as suspected breaches of crofting duties when the Crofting Commission decides whether to process a regulatory application or declines to act, giving the Commission stronger tools to encourage compliance and support proper management by grazings committees. The Minister for Agriculture and Connectivity spoke of his support for the amendment, emphasising that oversight of common grazings is a key regulatory responsibility and that equivalent sanctions are needed to mirror those applied to breaches of individual crofting duties.

Section 5 – Enforcement Action against Subtenant and Tenants of Short Leases

The Minister for Agriculture and Connectivity's amendment 22 was agreed unanimously, meaning that if the Crofting Commission decides to change or cancel permission for a sublet or short lease because duties or conditions have been broken, the person affected must be allowed to appeal that decision to the Land Court.

Before Section 9

Alasdair Allan MSP's amendments 25 and 26 were agreed to unanimously. They aim to strengthen fairness and clarity in family assignments. Amendment 25 requires the Crofting Commission to check whether a croft has been let by the commission and is still within the ten-year restriction on assignment before approving a family assignment, preventing anyone from transferring or selling a croft early for profit following a free let. Amendment 26 changes the order of the process so that when a crofter submits a family assignment application to the commission, they must at the same time give a copy to their landlord and inform them that they have twenty-eight days to send any representations directly to the commission. This makes the procedure more straightforward, ensures the commission knows the landlord has been notified, and avoids applicants having to gather and report the landlord's views themselves.

Alasdair Allan MSP's amendment 27 was grouped with others and agreed to unanimously. It simplifies how a landowner who creates a new croft can become its owner occupier crofter by allowing them to make a single combined application which the Crofting Commission must accept or reject as a whole, while also requiring the commission to consider whether the applicant will meet crofting duties. Amendments 28 and 30 ensure that anyone who becomes an owner occupier crofter through this route, along with their future successors, is formally recognised under the act. Amendments 35 and 36 give crofting communities the chance to object when the owner of a vacant croft applies for owner occupier status so that the commission can consider whether key duties such as residence, cultivation and purposeful use are likely to be met. Amendment 38 gives ministers the power to make future regulations about how owner occupied crofts are transferred, including potentially allowing community objections, but requires ministers to consult the Crofting Commission and representatives of both tenant and owner occupier crofters before using this power because any new system could affect thousands of crofters and the commission's workload.

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

Rhoda Grant MSP's amendments 39 and 40 were agreed to unanimously. They aim to adjust the ten-year ban on assigning or acquiring a croft tenancy when the Crofting Commission has let the croft under section 23 of the 1993 act. The bill currently prevents both the Commission from consenting to an assignment and the Land Court from authorising a purchase during that period. Her amendments allow both bodies to waive the ten year restriction in exceptional situations, such as when a crofter becomes seriously unwell or must leave the croft for reasons beyond their control, enabling the Commission and Land Court to consider individual circumstances and lift the restriction if it would be unreasonable to enforce it.

Rhoda Grant MSP's amendment 190 was agreed by division. She explained that it "seeks to deal with the issue of someone who is buying a croft or an assignment needing to be aware of the duties that they are taking on. All too often, people believe that a croft is a house, but it is not." She noted that crofts are sometimes sold for large sums because buyers misunderstand that the croft house must be attached to croft land and that the land carries significant obligations. Her amendment proposes a mechanism to ensure buyers understand these duties before completing a purchase.

The Minister for Agriculture did not support this amendment stating "One of the aims of the bill is to simplify the legislation and make crofting regulation less onerous for crofters and the commission. The amendment would bring yet more regulation into the system and would have a resource impact on the commission."

Section 12—Decrofting direction: rationalisation of routes and requirements

The Minister for Agriculture and Connectivity’s amendment 42 was grouped with others and agreed unanimously. Amendments 42, 43, 90 to 99 and 126 ensure that crofts must be registered before most regulatory applications can be made, removing the current system where registered and unregistered crofts follow different routes. These amendments require registration before applications for enlargement, exchange, assignation, division, resumption, decrofting, subletting, apportionment and letting of an owner-occupied croft can be submitted, and update the 2010 act accordingly. This creates one consistent process in an attempt to avoid confusion about the roles of parties involved. Amendments 42 and 43 remove earlier bill changes that are no longer necessary because the new registration rule covers the same ground. Amendment 95 extends the registration requirement to Land Court applications for resumption, and amendment 96 reflects that a resumption already triggers registration under existing law.

The Minister for Agriculture and Connectivity’s amendments 80, 81 and 82 expand the bill’s requirement that a tenant crofter who becomes the owner of an unregistered croft must register it by applying the same duty to cases where the tenant nominates someone else to take ownership, meaning the nominee must register the croft. Amendments 83, 84 and 85 modernise how registration fees are handled by aligning the crofting register with the approach used by Registers of Scotland. Amendment 83 allows the keeper to accept a registration application if payment has already been sent rather than only when future payment has been arranged, and requires the keeper to reject an application if neither condition is met. Amendments 84 and 85 remove the Crofting Commission’s role in checking fee payments for registration events involving common grazings or runrig land, transferring that responsibility fully to the keeper to create a simpler and more consistent system.

Section 14 – Commission’s power to adjust boundaries

The Minister for Agriculture and Connectivity’s amendment 44 was grouped with amendments 45 to 64. He explained that this group of amendments makes technical improvements to the Crofting Commission’s powers to adjust croft boundaries, following issues raised by the committee and by the commission itself. Amendment 44 ensures that a croft cannot be included in a boundary adjustment application while there is an unresolved registration challenge affecting it.

Amendment 55 extends similar protections to boundary remapping applications, preventing conflicting applications from running at the same time. Amendments 46 and 59 allow the commission to approve a boundary change subject to conditions, for example requiring related conveyancing to be completed, helping applicants avoid differences between their legal title and the crofting boundary.

Amendments 49 and 62 ensure that when conditions are attached, the authorisation expires three months after the conditions are met rather than three months after approval. Amendments 51 to 54 allow an owner or part owner to apply for boundary remapping, which will help resolve issues in crofts with multiple owners, provided all agree. Amendments 56 and 58 give the commission flexibility to decide who counts as an affected party in a boundary case.

Amendment 63 gives ministers the ability to add new categories of people whose consent is required, or to allow new types of applicants, such as enabling grazings committees in future to apply for adjustments between a common grazing and a croft. The remaining

amendments in the group make minor wording changes to improve clarity and consistency.

Before Section 15

The Minister for Agriculture and Connectivity's amendment 65 was grouped with multiple other amendments. He explained that amendments 65 to 69 and 73 create a clearer and more flexible system for dealing with grazings shares and their connection to crofts, after legal experts advised that the original section in the bill was too rigid. Amendment 67 removes that original section, while amendments 65, 68, 69 and 73 replace it with a new system, supported by amendment 66.

Amendment 65 provides that when a crofter buys their whole croft including the grazing right, that right becomes an inseparable part of the croft unless the Crofting Commission approves a division. Amendment 69 reinforces this by confirming that any grazing right held by an owner occupier crofter, whether purchased or held as a deemed croft, is treated as part of the croft and cannot be separated without commission approval.

Amendment 68 deals with cases where an owner occupier crofter who also holds a deemed croft sells their inby land without permission to separate; in that case the deemed croft is automatically assigned to the new owner. Amendment 73 requires the crofting register to record the link between a croft and any deemed croft held by the same person, though this applies only to transfers after commencement, while the separation rules still apply regardless.

Amendment 65 also introduces three further changes: it allows the right to buy to apply to permanently apportioned land held by someone who is not a crofter, it ensures that when an owner occupier crofter lets a croft to a new tenant the grazing share transfers with it, and it confirms that grazings committees and the Crofting Commission have the same management and oversight roles for all grazings shares.

The Minister for Agriculture and Connectivity's amendments 70, 71, 72 and 75 make small improvements to the bill to enhance clarity and readability.

Section 18 – Use of common grazings for forestry or environmental purposes

Tim Eagle MSP's amendments 143, 144 and 145 were agreed to by division. He argued that they would make it easier for landowners to refuse consent to proposals from grazings committees for forestry or environmental projects by lowering the thresholds for objection, allowing refusal on the basis of detriment, hardship or loss of amenity rather than requiring these to be substantial, undue or significant, while still leaving the Crofting Commission with the final decision.

Amendment 147 would extend the time a landowner has to issue a refusal of consent from six weeks to eight. Amendment 149 would remove wording that duplicates an existing requirement to enter commission determinations into the register of crofts. Amendment 150 would shorten the period in which an approved project must begin before consent expires, reducing it from seven years to five. Amendment 153 would ensure that, once the commission grants consent for the use of common grazings for forestry, environmental or other new purposes, that consent takes effect when it is entered into the register of crofts and remains binding on future owners of the land, mirroring provisions that already exist elsewhere in the 1993 act.

The Minister for Agriculture and Connectivity's amendments 76 (agreed unanimously) and

77 (agreed by division) clarify how energy projects are treated within common grazings legislation. Amendment 76 makes clear that energy generation, transmission and storage should be categorised as other uses of common grazings rather than as environmental uses, reflecting concerns raised during stage 1. Amendment 77 gives ministers the ability to make further clarifications through regulations in future if required.

Rhoda Grant MSP's amendment 197 was agreed to unanimously. It removes the part of the bill that allows a landowner's conditional consent for an environmental use of common grazings to proceed without any involvement from the Crofting Commission, and instead would ensure that the Commission has the authority to decide on all applications for environmental use, giving it full oversight rather than leaving decisions partly in the hands of landowners alone.

After Section 20

The Minister for Agriculture and Connectivity's amendment 78 (agreed unanimously) allows the Crofting Commission to correct clear administrative errors in an order or direction, such as a typographical error or a mistake in a map, as long as everyone affected is notified, given fourteen days to comment, and none of them objects or has relied on the original erroneous material. Amendment 79 was also agreed unanimously, and requires that any change in ownership of land that contains a croft, an owner occupied croft or a common grazing must be reported to the commission within one month, whether the change happens through sale, gift or inheritance, so that the register of crofts can be kept up to date; if a new owner fails to notify the commission or ignores requests for information, the commission may refuse to accept any objection they make until the situation is corrected.

Beatrice Wishart MSP's amendment 86 was agreed unanimously. It gives croft landlords more time to review and comment on a croft registration application before it is submitted to the Crofting Commission by extending the period from fourteen days to twenty-one days, which she argues is a more practical and realistic timeframe to check the application and help improve the accuracy of the maps included in the registration.

Section 30 – Crofting Census Notice

Tim Eagle MSP's amendment 155 was agreed unanimously and makes a simple technical adjustment by changing the heading of section 40A of the 1993 act so that the crofting-specific notice required under that section cannot be confused with either the agricultural census or the national census which occurs every ten years.

Section 26 - Rectification of the Crofting Register

The Minister for Agriculture and Connectivity's amendments 87, 88 and 89 were agreed to unanimously. They remove an unused power that would have allowed the keeper of the Registers of Scotland to correct a manifest error in the crofting register on their own initiative, after the keeper confirmed they would not make use of it; however, the bill still retains the new provision allowing the Crofting Commission to direct the keeper to correct clear and obvious errors when the solution is straightforward and the affected parties have been consulted, ensuring that genuine mistakes can be fixed quickly and with minimal cost to those involved.

Areas of discussion ahead of Stage 3

This section summarises areas where the Bill was not amended, but where indications were given that there may be further discussions about or consideration of an issue in advance of Stage 3, or policy commitments were made related to amendments that were debated.

Representation of Landlords' Interests on the Crofting Commission

Edward Mountain MSP explained that his amendment aimed to reinstate the requirement for someone on the Crofting Commission who can represent landlords' interests, arguing that removing this obligation risks marginalising a group that plays an increasingly significant role in crofting areas, including community landowners. He emphasised that the commission was renamed to reflect its service to the whole crofting community and warned that excluding landlords' perspectives would be short-sighted given their contribution to investment and shared community benefits. In response, the Minister for Agriculture and Connectivity acknowledged the importance of the landlord voice but maintained that the amendment would limit necessary flexibility when appointing commissioners, particularly as appointments are infrequent and the number of appointees is small. He noted that the bill already requires ministers to consult the commission on desired attributes and to consider the value of landlord representation without mandating it. Edward Mountain indicated he would not move the amendment if the minister was willing to work with him before stage 3 to explore a workable solution.

Debate on Consent for Absence from a Croft

Rhoda Grant MSP explained that her probing amendment aimed to address concerns that the system allowing crofters to seek consent to be absent is being misused, with some individuals allegedly using it to justify long-term or permanent absence. While acknowledging that legitimate reasons exist, such as work, caring duties or family circumstances, she stressed the need to prevent abuse without risking the homes or livelihoods of those facing genuine difficulties. In response, the Minister for Agriculture and Connectivity opposed the amendment, arguing that removing the ability to apply for consent would create uncertainty and stress for crofters who must leave temporarily, as they would have no way to notify the commission in advance and could be reported while unable to respond. He emphasised that the current system encourages transparency rather than concealment. Rhoda Grant MSP reiterated the need to tighten rules around misuse, and the minister agreed to continue discussions ahead of stage 3, noting that although he could not support the amendment in its current form, constructive dialogue on improvements would be welcome.

Discussion on the Crofters' Right to Buy

Rhoda Grant MSP explained that her amendment 177 sought to remove the crofters' right to buy, arguing that this right has contributed to increasing croft prices and restricted young people's access to crofting. Although she did not move the amendment due to its controversial nature and time constraints, she urged the Government to consider future reforms. In response, the Minister for Agriculture and Connectivity emphasised that the right to buy has been central to crofting legislation since 1976 and that any removal would require extensive consultation and impact assessment. The minister noted that the current bill already introduces limits, such as suspending the right to buy for new tenants for 10 years and removing it from crofters in breach of duty, and stressed that significant changes, including limits on landlords' resumption rights, also demand careful

consideration. He offered to discuss the issues further before stage 3.

Reuniting Grazing Shares with Their Original Crofts

Rhoda Grant MSP explained that her amendment sought to give ministers the power to reunite grazing shares with the crofts to which they originally belonged, noting that many current holders may be unaware of their status or may be retaining shares to profit from the work of grazings committees. She highlighted the tension this creates when shares are held by people with no connection to the community and expressed doubt that the minister's existing amendments address this issue. In response, the Minister for Agriculture and Connectivity stated that the bill already enables the reunification of grazing shares with their original crofts, pointing to the relevant provision that mirrors what her amendment proposed. He offered to discuss the matter further ahead of stage 3 and suggested that, if outstanding concerns remain, the amendment could be reconsidered at that stage.

Wider Review and Reform of Crofting Legislation

Members discussed several amendments aimed at ensuring a formal review of crofting legislation after the current bill becomes law. Tim Eagle MSP argued that crofters had long expected more substantial reform and proposed amendment 211, calling for a comprehensive review within two years. Ariane Burgess MSP supported the need for quicker progress and lodged related amendments, including a requirement for further legislation in the next parliamentary session. The Minister for Agriculture and Connectivity agreed that further reform is necessary but warned against moving too quickly without thorough consultation with crofters and stakeholders. He invited both MSPs to withdraw their amendments to allow cross-party discussions before stage 3. Rhoda Grant MSP stressed that crofting faces serious pressures and that the next Government must be required to pursue substantial legislative reform.

Part 2 of the Bill: merger of the Scottish Land Court and the Lands Tribunal for Scotland

Part 2 of the Bill merges the Scottish Land Court and the Lands Tribunal for Scotland into a single, more efficient body, keeping the name Scottish Land Court.

How Part 2 was amended at Stage 2

Technical Amendments

Amendment 127 removes an unnecessary change to the 1993 Act because the point is already covered elsewhere in existing law. Amendment 131 updates the Tribunals (Scotland) Act 2014 to reflect that the Lands Tribunal for Scotland will transfer its functions to the Scottish Land Court.

Schedule 1 – The Scottish Land Court

The Minister for Agriculture and Connectivity's amendment 116 was grouped with others and agreed unanimously. It makes technical updates required following the passage of the Land Reform Scotland Act 2025, ensuring that the bill correctly reflects the Scottish Land Court's jurisdiction in relation to both the historic Small Landholders Scotland Acts of 1886 to 1931 and the new small landholdings provisions set out in schedule 2 of the 2025 act.

The Minister for Agriculture and Connectivity's amendments 102 to 115 were agreed unanimously. Amendments 102 to 105 strengthen and modernise the rules for appointing a deputy chair of the Scottish Land Court by allowing a temporary appointment to be made whenever needed, including when the chair cannot act and no suitable existing member is available, while ensuring that a non-member can only be appointed if they have already been through the Judicial Appointments Board for Scotland process and with the agreement of the Lord President; these amendments also allow ministers to appoint experienced sheriffs or sheriff principals with at least ten years of service to act temporarily as deputy chair.

Amendments 107 to 109, 112 to 114 and 122 to 124 update the system for reviews and appeals once the Scottish Land Court and the Lands Tribunal for Scotland are merged, creating a coherent structure that avoids duplication, ensures the correct members handle internal reviews, and provides flexibility to adjust arrangements in future. Amendment 112 gives ministers power, through affirmative regulations and after consultation with the Lord President and the court's chair, to specify which matters are not subject to internal review and how appeals to the Court of Session should operate, ensuring proper judicial oversight.

Amendments 118 and 119 require the Scottish Civil Justice Council and the Court of Session to consult the chair of the Land Court when preparing procedural rules, helping ensure the court's specialist work is fully understood and reflected. Finally, amendment 129 brings the Scottish Land Court into the Judicial Appointments Board for Scotland's process by requiring that, when the Board considers an appointment to the court, at least one Land Court member participates, ensuring specialist expertise helps inform judicial

appointments.

The Minister for Agriculture and Connectivity's amendment 116 was grouped with others and agreed unanimously. 117 make technical updates required following the passage of the Land Reform Scotland Act 2025, ensuring that the bill correctly reflects the Scottish Land Court's jurisdiction in relation to both the historic Small Landholders Scotland Acts of 1886 to 1931 and the new small landholdings provisions set out in schedule 2 of the 2025 act.

Schedule 2 - Minor and consequential amendments

Ariane Burgess MSP's amendment 163 was agreed by division and will adjust the apportionment review process so that, when a township, crofter, grazings committee or landowner applies to the Crofting Commission to review an apportionment, the Commission can bring only part of that apportionment to an end rather than having to end or change the whole area; this is intended to deal with practical situations where only a small section, such as an access track or shared facility that was unintentionally included in the original apportionment, needs to be removed without altering the remainder.

The Minister for Agriculture and Connectivity's amendment 131 was agreed to unanimously, making a necessary consequential update to the Tribunals Scotland Act 2014 by removing the Lands Tribunal for Scotland from the list of tribunals that could be transferred into the Scottish tribunals system, because under section 36 of the bill the Lands Tribunal's jurisdiction and functions will instead be transferred to the Scottish Land Court, and this amendment ensures that the legislation accurately reflects the new tribunal landscape.

Areas of discussion ahead of Stage 3

This section summarises areas where the Bill was not amended, but where indications were given that there may be further discussions about or consideration of an issue in advance of Stage 3, or policy commitments were made related to amendments that were debated.

Review of the Scottish Land Court and Lands Tribunal Merger

The Minister for Agriculture and Connectivity stated that he is not opposed to reviewing the effectiveness of merging the Scottish Land Court with the Lands Tribunal for Scotland but stressed that any such review must fully respect judicial independence and the independence of the Scottish Courts and Tribunals Service. He noted that much of the information sought, such as operational costs, case-load data and waiting times, is already publicly available through existing reporting.

Tim Eagle MSP explained that his amendment 214 was intended to highlight concerns raised during stage 1 evidence sessions rather than insist on a statutory review. He indicated he was content not to move the amendment but asked for assurances that the effectiveness of the merger would still be monitored. The Minister for Agriculture and Connectivity agreed to speak with him before stage 3 to explore an alternative amendment that could achieve that aim.

Land Access Case Monitoring

Ariane Burgess MSP proposed amendment 161 would have required the Government to report after three years on the number and nature of land access cases brought to the Land Court. She argued that such monitoring is essential to identify barriers preventing people from pursuing access rights cases and to build public confidence in the newly merged court's capacity to handle them.

In response, the Minister for Agriculture and Connectivity said that, while he understood the intention behind amendment 161, its current drafting would not achieve the desired effect due to technical issues linked to the commencement of section 35. He confirmed that the Government was willing to work with Ariane Burgess MSP to develop a workable alternative for stage 3 and invited her not to move the amendment at this stage.

Expanding Environmental Jurisdiction in the Land Court

Ariane Burgess MSP proposed amendment 157 to give the newly merged Land Court and Lands Tribunal jurisdiction over environmental cases. She argued this would offer communities and charities a low-cost route to challenge environmental harm and help Scotland meet its Aarhus Convention obligations. She noted that the Land Court already handles specialist cases, including some involving SEPA, and could take on this role with adequate resourcing. Ariane Burgess MSP also highlighted that environmental cases are likely to increase due to climate and biodiversity pressures, making early development of judicial expertise important.

Amendments 158, 159, 164 and 165 would support amendment 157 by improving cost protections for environmental litigants. As a fallback, amendment 162 would require ministers to create a stakeholder working group to assess the feasibility of an environmental court and report publicly on its findings.

The Minister for Agriculture and Connectivity acknowledged the aims behind the amendments and reaffirmed the Government's commitment to Aarhus compliance. He highlighted ongoing work on legal aid reform and the role of Environmental Standards Scotland as an accessible route for environmental complaints. While recognising the concerns raised, he noted that substantial related work is already in progress.

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Members of the public or external organisations may comment on this briefing by emailing us at SPICe@parliament.scot. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers. If you have any general questions about the work of the Parliament you can email the Parliament's Public Information Service at info@parliament.scot. Every effort is made to ensure that the information contained in SPICe briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

