

# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 24 JUNE 2015

Present:	Colin Kennedy	Vice-Convener
	IG Macdonald	Commissioner
	David Campbell	Commissioner
	Kathleen Sinclair	Commissioner
	Marina Dennis	Commissioner
	Arnie Pirie	Commissioner
	Murdo MacLennan	Commissioner
	Catriona Maclean	Chief Executive
	Trudi Sharp	Deputy Director, Scottish Government
	Lucy Carmichael	Senior Crofting Policy Advisor, Scottish Government
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulation
	Jane Thomas	Head of Corporate & Customer Services
	David Findlay	Commission Solicitor
	Posy MacRae	Communications Manager
	Morag Menzies	PA to Convener, Minute-taker
	Kerr Gibb	BBC Alba

### 1 APOLOGIES AND WELCOME

Apologies were received as follows:

William Swann, Commissioner  
Donna Smith, Head of Information Systems

Vice-Convener Kennedy chaired the meeting and welcomed everyone, especially Trudi Sharp and Lucy Carmichael from the Scottish Government.

### 2 DECLARATION OF INTERESTS

None

### 3 APPROVAL OF DRAFT BOARD MINUTE OF 13 MAY 2015

The Minute of the Meeting of 13 May 2015 was approved subject to the following amendment:

Page	Item	Paragraph	Amended/Additional text should read
8	13	1	Amend 'Paper with includes' to 'Paper which includes'.

#### 4 MATTERS ARISING FROM PREVIOUS MEETING

The Action Points from the previous meeting on 13 May 2015 were reviewed:

- Page 4, Item 6, the Chief Executive advised that Jacqueline MacBean, the new Duties Team Manager, will act as the point of contact between the Commission and Highlands & Islands Enterprise.

#### 5 E-MAILED PAPER FOR APPROVAL

##### (a) Appeals to Scottish Land Court – Operational Matters

The Commission welcomed the clarity and content of the Paper, which sets out the roles and functions relating to Land Court appeals that require an instruction from the Board and those matters that are operational and can be dealt with by staff.

The Commission approved the Paper.

<b>Decision</b>	<b>The Commission approved the Paper.</b>
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#### 6 SHORT TERM WORKING GROUP UPDATES

There were no updates to report.

#### 7 REVISED STANDING ORDERS AND STRUCTURE OF COMMISSION MEETINGS

The Head of Policy presented the Paper, which provides a revised version of the Commission Standing Orders and explained the parts that have been removed or amended.

Under 'Commission Committees' on page 20, the Commission want the word 'generally' removed from paragraph 19.2.

Under paragraph 16.5 the Commission want the wording amended to say 'mover or seconder' instead of 'mover and seconder' and a full stop should be added to the end of the sentence.

The Commission approved the Paper.

<b>Decision</b>	<b>The Commission approved the Paper subject to the following amendments:</b>  <b>Under 'Commission Committees' on page 20, the Commission want the word 'generally' removed from paragraph 19.2.</b>  <b>Under paragraph 16.5 the Commission want the wording amended to say 'mover or seconder' instead of 'mover and seconder' and a full stop should be added to the end of the sentence.</b>
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## 8 IMPACT OF CENSUS RESULTS ON DUTIES/INVESTIGATING BREACHES

The Head of Policy presented the Paper, which provides indicators from the annual census returns in relation to crofting duties. It recommends a methodology for prioritising subsequent investigations and areas it might consider working in partnership with HIE and others. It also recognises the role of landlords and in particular considers that the Scottish Ministers' crofting estates could provide a lead.

Following the return of the Census there are almost 5000 crofters that need to be investigated to ensure compliance with their duties.

A Working Group looked at this issue and agreed that if the Commission was advised of non-compliance of duties, they had a duty to investigate.

The Commission must prioritise areas it is going to investigate and do that in a collaborative way, possibly in conjunction with HIE under their Community Account Management Programme, and have discussed working with Scottish Ministers' Estates.

If the Commission took this approach it would not just investigate breaches of duties but all regulation including compliance through sublet, assignation and letting, and also look into unresolved succession and vacant crofts.

The Commission approved this suggested way forward and agreed that the Chief Executive will write to the Minister to ensure that she is content with this approach.

The Commission agreed that all crofters who are in breach of their duties should be written to and the Chief Executive advised that letters are going to be issued to them soon.

<b>Decision</b>	<b>The Commission approved the Paper and the suggestion to work in conjunction with HIE under their Community Account Management Programme, and also to begin working with Scottish Ministers Estates after hearing back from the Minister.</b> <b>The Chief Executive will write to the Minister to seek her approval and staff will write to all the crofters who are in breach of their duties, to advise them that they will be investigated in due course.</b>
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## 9 ROLE OF ASSESSORS – STAGE ONE

The Head of Policy presented the Paper, which provides for the first phase of a revised structure for the Commission's panel of Assessors.

Under this new structure, Assessors will no longer be asked for advice on regulatory matters and applications. They would instead be asked for advice on other elements as follows:

- Promoting common grazing regulations/setting up grazing committees
- Promoting the completion and return of crofting census forms
- Assisting people with applications
- Mentoring new crofters/practical skills for crofters.

Commissioners discussed the proposed new responsibilities for Assessors on page 28 and agreed that at bullet point 3, the word 'promoting' should be replaced with 'encouraging' and at bullet point 5, the word 'advising' should be replaced with 'informing'.

The Commission agreed that it was important to give Assessors training for their revised roles and to keep them informed about the proposed changes.

The Commission approved the Paper. A Paper will come to the Board at a later date to discuss the future selection of the Assessors Panel.

<b>Decision</b>	<b>The Commission approved the Paper subject to the word changes at bullet points 3 and 5.</b> <b>The Commission advised that it was important to give Assessors training for their revised roles and to keep them informed about the proposed changes.</b> <b>A Paper will come to the Board at a later date to discuss the future selection of the Assessors Panel.</b>
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## 10 REVISED POLICY PLAN

The Commission Solicitor presented the Paper, which details the changes to the Policy Plan that were agreed with Commissioners at the Policy Planning Day on 2 June 2015.

There is to be a consultation next week where Decrofting Policy will be looked at.

Discussion took place about Division and what happens to a share if a croft is divided. If an applicant applies to divide a croft and doesn't mention the share on the application form, the Commission must write out and clarify what they want to do with the share. The application is not competent until that information is received. This should be added to the Policy Plan.

Advice from Senior Counsel has already been received on this matter.

The wording of the fourth bullet point under Division should be amended to say 'of the use of any associated share(s) in a common grazing'.

Discussion took place about Sustainability. The Commission recognises that it has limited powers to deliver sustainable development.

The Commission discussed Apportionment and agreed that at bullet point 2, the words 'though it will not necessarily agree with these' should be removed.

Under bullet point 4, the Commission agreed to take out the first sentence and replace it with 'In the absence of any comments in response to the public advertisement, the Commission will assume it will have no adverse impact on crofters.'

The Commission approved the Paper, subject to the above mentioned changes.

<b>Decision</b>	<p><b>The Commission approved the Paper, subject to the following changes to the Policy Plan:</b></p> <p><b>If an applicant applies to divide a croft and doesn't mention the share on the application form, the Commission must write out and clarify what they want to do with the share. The application is not competent until that information is received. This should be added to the Policy Plan.</b></p> <p><b>The wording of the fourth bullet point under Division should be amended to say 'of the use of any associated share(s) in a common grazing'.</b></p> <p><b>The Commission agreed that at bullet point 2, the words 'though it will not necessarily agree with these' should be removed.</b></p> <p><b>Under bullet point 4, the Commission agreed to take out the first sentence and replace it with 'In the absence of any comments in response to the public advertisement, the Commission will assume it will have no adverse impact on crofters.'</b></p>
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## 11 SHORT REPORT ON EVENTS ATTENDED BY COMMISSIONERS

**Commissioner Campbell** – attended the Duties STWG, the Cross Party Group meeting in Edinburgh and the Royal Highland Show.

Commissioner Campbell felt the Commission should have a presence at each of the local shows throughout the summer.

**Commissioner Macdonald** – attended the Duties STWG and a Registers of Scotland meeting in Broadford.

**Commissioner MacLennan** – attended the Duties STWG and made various regulatory visits.

**Commissioner Dennis** – hosted a visit through Crofting Connections of a group of farmers from Kenya. They spent six hours on her croft and it was a very interesting visit. She took part in a teleconference to discuss Devolved Decision Making and attended a Hearing in Stachur.

**Commissioner Sinclair** – attended a Hearing in Strachur and a Registers of Scotland Meeting in Lerwick.

**Commissioner Pirie** – did not attend any meetings.

**Vice-Convener Kennedy** – attended a Hearing in Stachur and a teleconference on Devolved Decision Making.

## 12 DATE OF NEXT MEETING

5 August 2015 – Great Glen House

**13 ANY URGENT BUSINESS**

None

**14 EXCLUSION OF THE PRESS AND PUBLIC**

Vice-Convenor Kennedy thanked everyone for attending the meeting and especially thanked the staff for producing such excellent Papers for today's Board Meeting.

The meeting ended at 11:46 hrs.