

## CROFTING DUTIES

The crofting duties are as follows:

### 5AA Crofters: residency duty

A crofter must be ordinarily resident on, or within 32 kilometres of, that crofter's croft.

### 5B Crofters: duty not to misuse or neglect croft

A crofter must not misuse or neglect the crofter's croft.

A croft is misused where a crofter wilfully and knowingly uses it for any purpose other than:

- Its cultivation<sup>1</sup>; or
- Some other planned and managed purposeful use<sup>2</sup> permitted by the landlord or the Commission that does not adversely affect the croft, the public interest, the interests of the landlord or the owner, or the use of adjacent land; or
- A reasonable subsidiary or auxiliary occupation that is not inconsistent with its continuing or future cultivation and permitted prior to 28<sup>th</sup> January 2008; or
- An activity or measure intended to conserve the natural beauty of the locality or its flora and fauna.

A crofter neglects a croft where the croft is not managed to meet the standards of good agricultural and environmental condition referred to in regulation 4 of, and the schedule to, the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004 (SSI 2004 No. 518) other than:

- Where the crofter, in a planned and managed manner, engages in, or refrains from, an activity for the purpose of conserving the natural beauty of the locality of the croft; or the flora and fauna of that locality; or
- Where the croft is being used for a subsidiary or auxiliary occupation that is not inconsistent with its continuing or future cultivation and permitted prior to 28<sup>th</sup> January 2008.

Details are available at link [www.scotland.gov.uk/publications/2005/12/0990918/09207](http://www.scotland.gov.uk/publications/2005/12/0990918/09207) on Scottish Government Rural Payments and Inspections Directorate website.

### 5C Crofters: Duty to cultivate and maintain

A crofter must cultivate the croft or put it to another purposeful use, to which the landlord or the Crofting Commission has consented, so that every part of the croft which is capable of being cultivated or put to another purposeful use is either cultivated or purposefully used.

The croft must be kept in a fit state for cultivation unless this is incompatible with it being used for another purposeful use.

In ensuring compliance with maintaining the croft in a fit state for cultivation, a crofter must have regard to whether appropriate measures (which may include the provision of drainage) are routinely undertaken, where requisite and practicable, to control or eradicate vermin, bracken, whins, broom, rushes and harmful weeds.

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<sup>1</sup> Cultivate includes the use of a croft for horticulture or for any purposes 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 woodland. **Section 5(8)**

<sup>2</sup> Purposeful use means any planned and managed use which does not adversely affect the croft, the public interest, the interest of the landlord or (if different) the owner; or the use of adjacent land. **Section 5(8)**

## 19C Duties of owner-occupier crofters

An owner-occupier crofter:

- a) Must be ordinarily resident on, or within 32 kilometres of, the owner-occupier's croft;
- b) Must not misuse or neglect the croft;
- c) Must cultivate the croft or put it to another purposeful use, so that every part of the croft which is capable of being cultivated or put to another purposeful use is either cultivated or put to another purposeful use;
- d) Must keep the croft in a fit state for cultivations (except insofar as the use of the croft for another purposeful use is incompatible with the croft being kept in such a state).

The duties are virtually the same as those of the tenant crofter, although for purposeful use the owner-occupier crofter obviously does not require the consent of the landlord or, failing that, the consent of the Crofting Commission.